

recorded plat thereof, of record in Plat Book 7, page 186, Recorder's Office, Franklin County, Ohio.

Upon examination of said abstract, I am of the opinion same shows a good and merchantable title to said premises in Clara V. Wooley, subject to the following exceptions:

There appear to be one or two minor deficiencies in the early history of the title, but I am of the opinion, because of a considerable lapse of time, same may be disregarded.

Attention is directed to certain restrictions against the use of the premises for the erection of any buildings to be used for slaughter houses, the killing of animals or the use of said premises for the sale of intoxicating liquors and malt beverages. These restrictions follow the premises for a period of twenty-five years from the date of the subdivision.

The abstract states no examination has been made in the United States District or Circuit Courts or any subdivision thereof.

Your attention is called to an uncanceled and unsatisfied mortgage by the present owner, Clara V. Wooley to the Buckeye State Building and Loan Company, given to secure grantor's obligation in the sum of \$950.00. A proper release showing payment of this mortgage must be procured before the final consummation of the purchase of this property.

Taxes for the year 1924, the amount of which is as yet undetermined, are a lien. The amount of the tax for the first half of the year 1924 should be determined and paid before the title is transferred.

It is suggested that the proper execution of a general warranty deed by Clara V. Wooley, a widow, will be sufficient to convey the title of said premises to the State of Ohio when properly delivered.

The abstract is herewith returned.

Respectfully,
C. C. CRABBE,
Attorney General.

1716.

TAXES AND TAXATION—GENERAL FUNDS OF COUNTY MAY NOT LEGALLY BE REIMBURSED FROM THE WATER WORKS FUND FOR ITS PROPORTION OF THE CONTRIBUTION TO THE STATE INSURANCE FUND.

SYLLABUS:

The contribution of the several subdivisions to the state insurance fund is a charge against the subdivision as a whole. There is no provision in the statute for apportioning this contribution among the several funds for which taxes are raised. The general funds of the county may not legally be reimbursed from the water-works fund for its proportion of the contribution to the state insurance fund.

COLUMBUS, OHIO, September 5, 1924.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

Gentlemen:—

I acknowledge receipt of your letter of recent date in which, after quoting sections 1465-65 and 1465-66 of the General Code, you state:

“The county auditor when making settlement deducts the amount paid to the insurance fund on account of the city of _____ from the total taxes collected for all funds and purposes for such city. This practice compels the city officers to redistribute the net proceeds of the tax settlement. This is accomplished by crediting all tax receipts to an undistributed fund and later transferring sums from such fund to the general, safety, health, service, sinking fund, etc., at the discretion of the city auditor and without any action by council. The proportion of state insurance occasioned by the operation of the waterworks is paid by such waterworks to this undistributed tax fund. There is no levy of taxes for waterworks purposes and consequently no other method of reimbursing the general tax levy funds for such waterworks proportion.”

You then submit the following questions:

“(1) May council by ordinance determine the proportionate amount of state insurance to be deducted from each fund for which taxes are levied?

“(2) If council can so determine, could the general tax levy funds be legally reimbursed from the water works fund for which no taxes are levied for such waterworks proportion of state insurance?”

Section 5649-3a of the General Code provides, among other things, for the formation of an annual budget by the legislative authorities of the several types of political subdivisions within the county. This budget sets forth in itemized form, the amounts to be raised for each and every purpose allowed by law, for which it is desired to raise money for the incoming year.

Section 5649-3c provides for an adjustment of these estimates by the budget commission so that the total rate necessary to be levied to produce these amounts may not exceed the limitations.

Section 5649-3d provides for semi-annual appropriations to be made by the legislative authorities of the various political subdivisions “for each of the several objects for which money has to be provided from the moneys known to be in the treasury from the collection of taxes and all other sources of revenue * * * but no appropriation shall be made for any purpose not set forth in the annual budget, nor for a greater amount for such purpose than the total amount fixed by the budget commissioners, exclusive of receipts and balances.”

Sections 2296 to 2302 inclusive, provide for a method of transfer from one public fund to another.

It is evident from a reading of these sections that there was an intention on the part of the General Assembly to maintain the identity of the fund raised for each of the several purposes set out in the annual budget, and an intention that money raised for one purpose should not be used for any other purpose without the formalities of a transfer from one fund to the other as provided by law.

Sections 1465-65 and 1465-66 read as follows:

"Sec. 1465-65. In the month of December of each year, the auditor of state shall prepare a list for each county of the state, showing the amount of money expended by each township, city, village, school district or other taxing district therein for the service of persons described in subdivision one of section fourteen hereof, during the fiscal year last preceding the time of preparing such lists; and shall file a copy of each such list with the auditor of the county for which such list was made, and copies of all such lists with the treasurer of state. Such lists shall also show the amount of money due from the county itself, and from each city, township, village, school district and other taxing district thereof, as its proper contribution to the state insurance fund, and the aggregate sum due from the county and such taxing districts located therein.

Provided, however, that should the industrial commission of Ohio on or before the first day of December in any year certify to the auditor of state that sufficient money is in the state insurance fund to the credit of any county or counties to provide for the payment of compensation to the injured and to the dependents of killed employes of such county or counties and the several taxing districts therein for the ensuing year, the auditor of state shall not prepare and file with the county auditors and the treasurer of state said list or lists for such county or counties specified in such certificate; and it shall be the duty of the industrial commission of Ohio to make and file such certificate with the auditor of state whenever in its judgment there is sufficient money in the state insurance fund to the credit of any county or counties to provide for the probable disbursements required to be made to the injured and to the dependents of killed employes of such county or counties and the several taxing districts therein for the ensuing year."

"Sec. 1465-66. In January of each year following the filing with him of the list mentioned in the last preceding section hereof, beginning with January, 1914, the auditor of each county shall issue his warrant in favor of the treasurer of state of Ohio on the county treasurer of his county, for the aggregate amount due from such county and from the taxing districts therein, to the state insurance fund, and the county treasurer shall pay the amount called for by such warrant from the county treasury, and the county auditor shall charge the amount so paid to the county itself and the several taxing districts therein as shown by such lists; and the treasurer of state shall immediately upon receiving such money convert the same into the state insurance fund."

The language of these sections indicates the intention that the contribution to the State Insurance Fund should in itself constitute a charge against the political subdivision as a whole without reference to the several funds for which levies are made within the subdivision. Some of these funds are not such as could be charged with a contribution, and in the case of the sinking fund no part of it could be used for that purpose. The amount necessary for payment of this contribution from the political subdivision should be considered in determining the levy for general governmental purposes for that subdivision. The general principle involved is very clearly discussed in the Opinions of the Attorney General for 1919, volume 2, page 1199.

In answer to your second question, I would suggest that since there is no statute authorizing the transfer of money from the waterworks fund to reimburse the general fund for this contribution, the City Council is without authority to make such transfer. In this connection I refer you to the case of Cincinnati vs. Bettinger, 105 O. S., 145.

You are therefore advised that the Council may not legally reimburse the general fund from the waterworks fund.

Respectfully,
C. C. CRABBE,
Attorney General.

1717.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE VAN GUNDY-BECK COMPANY OF LANCASTER, OHIO, FOR CONSTRUCTION AND COMPLETION OF A MANUAL TRAINING BUILDING, OHIO UNIVERSITY, ATHENS, OHIO, INCLUDING ALL BRANCHES OF WORK EXCEPT HEATING, PLUMBING AND WIRING, AT COST OF \$157,988.00.—SURETY BOND EXECUTED BY THE GLOBE INDEMNITY COMPANY.

COLUMBUS, OHIO, September 8, 1924.

HON. L. A. BOULAY, *Director, Department of Highways and Public Works, Columbus, Ohio.*

Dear Sir:—

You have submitted for my approval a contract between the State of Ohio, acting by the Department of Highways and Public Works, and The Van Gundy-Beck Company, of Lancaster, Ohio. This contract covers the construction and completion of a manual training building, Ohio University, Athens, Ohio, including all branches of the work except heating, plumbing and wiring, and calls for an expenditure of \$157,988.00.

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. There has further been submitted a contract bond upon which the Globe Indemnity Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
C. C. CRABBE,
Attorney General.