

local boards of health to regulate plumbing and drains and all matters pertaining thereto."

Inasmuch as nothing is said in the act relating to sanitary sewer districts regarding plumbing or giving the county commissioners authority to make and enforce rules and regulations regarding plumbing, it would seem that they were exceeding their powers granted them under section 6602-1 in making such rules and regulations in relation to the installation of plumbing in connection with the sanitary sewer district.

It is therefore my opinion that the board of county commissioners may not, under section 6602-1, make and enforce rules and regulations in regard to plumbing.

Respectfully,

C. C. CRABBE,
Attorney General.

634.

CITY SOLICITOR—LEGAL ADVISER OF CITY BOARD OF EDUCATION
—NOT OBLIGATED TO PREPARE ABSTRACT OF TITLE.

COLUMBUS, OHIO, August 11, 1923.

SYLLABUS:

In view of a former opinion of this department in which sections 4761 and 4762, G. C., are considered, and the conclusion reached that while the City Solicitor is the legal adviser and attorney of the city board of education he is not obligated to prepare abstracts of title of property for such board, such city board of education could legally compensate a person holding the office of City Solicitor for his services in preparing an abstract of title.

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

GENTLEMEN:—This is to acknowledge the receipt of yours of recent date in which you submit the following inquiry:

"May a board of education of a city school district legally compensate the city solicitor of the city, who is the legal adviser of the board of education, for services in preparing an abstract of title of property being purchased by the board for school purposes?"

In reply your attention is first directed to the provisions of the General Code providing that the city solicitor in city school districts shall be the legal adviser and attorney of the boards of education thereof, to wit, sections 4761 and 4762 G. C. which read as follows:

Section 4761: Except in city school districts, the prosecuting attorney of the county shall be the legal adviser of all boards of education of the county in which he is serving. He shall prosecute all actions against

a member or officer of a board of education for malfeasance or misfeasance in office, and he shall be the legal counsel of such boards or the officers thereof in all civil actions brought by or against them and shall conduct such actions in his official capacity. When such civil action is between two or more boards of education in the same county, the prosecuting attorney shall not be required to act for either of them. *In city school districts, the city solicitor shall be the legal adviser and attorney for the board of education thereof, and shall perform the same services for such board as herein required of the prosecuting attorney for other boards of education of the county.*"

Section 4762: "The duties prescribed by the preceding section shall devolve upon any official serving in a capacity similar to that of prosecuting attorney or city solicitor for the territory wherein a school district is situated, regardless of his official designation. No prosecuting attorney, city solicitor or other official acting in a similar capacity shall be a member of the board of education. *No compensation in addition to such officer's regular salary shall be allowed for such services.*"

Attention is also directed to a former opinion of this department found in opinion of the Attorney General for 1912, page 1841, the syllabus of which is as follows:

"The duties of the city solicitor with respect to city school district boards of education, are set out in full in section 4761, General Code, and as he is made the 'legal advisor' of such boards, it is his duty as such to give his opinion upon the legal title to real estate in which the board is interested.

He may formulate his opinion in any reliable legal manner he desires however, and is not compelled to make his advice take the form of an abstract of title."

Attention is also directed to the language of the second last paragraph of said opinion, which reads as follows:

"The city solicitor is free to found his advice (relative to title) upon any reliable legal grounds he may see fit to resort to and may formulate his expression of such opinion with the same freedom. The city solicitor may, therefore, if he so desires, render such advice in the form of an abstract of title, prepared by himself, *but he is not obligated so to do.*"

In view of this opinion and the language above referred to, it would seem that it does not come within the duties of the city attorney, as attorney for the city board of education, to prepare abstracts of title. Having this conclusion in mind, attention is directed to the last sentence of section 4762, which provides no compensation in addition to such officer's regular salary shall be allowed for such services. If such services do not include the preparation of abstracts of title, then it would seem that the regular compensation of such officer would not cover services rendered by him in some other capacity.

In view of the former opinion, it would seem that the services rendered in preparing an abstract of title would not come within his duties as attorney for the board of education, and would not, therefore, be included within the provisions of section 4762 relative to his compensation.

Therefore it is believed that a city board of education could legally compensate a person holding the office of city solicitor for his services in preparing an abstract of title.

Respectfully,
C. C. CRABBE,
Attorney General.

635.

UNDER SECTION 1532-6 G. C. GOVERNOR IS AUTHORIZED TO APPOINT ADDITIONAL JUDGE FOR LUCAS COUNTY—110 O. L. 157.

COLUMBUS, OHIO, August 11, 1923.

SYLLABUS:

Under section 1532-6 G. C. (H. B. 410, Eighty-fifth General Assembly), the Governor is authorized, on and after the effective date of said statute, to appoint the additional judge provided for in said statute.

HON. A. V. DONAHEY, *Governor of Ohio, Columbus, Ohio.*

MY DEAR GOVERNOR:—You have requested my opinion as to whether, under the provisions of House Bill 410, Eighty-fifth General Assembly, in effect July 26, 1923, you have authority to appoint an additional judge of the Court of Common Pleas in and for Lucas County. You state that your reason for requesting an opinion is that the act provides that the first election for the additional judge shall take place in 1924 and, unlike certain earlier acts of similar purport, does not in so many words direct the Governor to make an interim appointment. The act in question has been designated as section 1532-6, which reads as follows:

“From and after the passage and taking effect of this act, there shall be one additional judge of the court of common pleas in and for Lucas county, who shall reside therein.

Such additional judge shall be elected in 1924 and every six years thereafter, for a term of six years, commencing on the first day of January, next after his election. Vacancies occurring in the office of such additional judge in Lucas county shall be filled in the manner prescribed for the filling of vacancies in the office of judge of the court of common pleas.

“He shall have the same qualifications and shall receive the same compensation as is provided by law for the judges of the court of common pleas in Lucas county. He shall exercise the same powers and have the same jurisdiction as is provided by law for judges of the court of common pleas. He and his successors shall, however, be elected and designated as a judge of the court of common pleas, division of domestic relations, and all the powers provided for in title four, chapter eight, of the General Code, relating to juvenile courts, shall be exercised in Lucas county by such judge of said court of common pleas, and on and after the appointment of such judge, there shall be assigned to said judge and his successors,