

The bid of the Davies-Bertram Company of Cincinnati, Ohio, of par, accrued interest and a premium in the sum of \$279.00, being the next highest bid, was accepted.

In the case of *State ex rel Ryan, et al. vs. Patton*, 109 O. S. 208, it was held that a bid which contains a qualification that the board shall furnish "a certified transcript showing said bonds to be legally issued in accordance with Section 7630-1 of the General Code of Ohio" is not unconditional or unlawful. The fact that in the instant case the bidder specified that the legality of the issue should rest in the opinion of a certain firm of attorneys or the Attorney General of Ohio does not in my opinion, in view of the decision in the Patton case, supra, make said bid a conditional bid. As stated in the opinion in the Patton case on page 211 "full compliance with the terms of the bid could in any event be compelled upon a showing that the proceedings were entirely regular and in full compliance with the section of the statutes, notwithstanding the language which the board found objectionable; and on the other hand if that language had been omitted from the bid performance could not have been compelled if the proceedings lacked regularity and legality."

The practicable way of determining the legality of an issue of bonds in the first instance is to submit the transcript of the proceedings to an attorney for examination. Should he advise the purchaser to reject the issue because in his opinion it was illegal and should the legality of the issue be established in a proper court the contract of sale could still be enforced in said court.

The language contained in W. L. Slayton & Company's bid is in my opinion mere surplusage and is not such a condition as will make the bid a conditional bid.

The bids were not awarded to the highest bidder and I am therefore compelled to advise you not to purchase the above issue of bonds.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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ELECTION—NOMINATING PETITIONS NEED NOT BE SIGNED IN INK  
OR INDELIBLE PENCIL.

SYLLABUS:

*Nominating petitions under Chapter 7, Title XIV, of the General Code of Ohio, need not be signed in ink or indelible pencil.*

COLUMBUS, OHIO, August 12, 1927.

HON. CARL Z. GARLAND, *Prosecuting Attorney, Batavia, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication requesting my opinion as follows:

"Please advise whether or not the election laws require petitions to be signed either in ink or indelible pencil.

Your immediate reply will be appreciated."

Section 4996 of the General Code provides for the nomination of candidates for any elective office in any township or municipality having less than two thousand population, as follows:

"Nominations of candidates for any elective office in any township or in any municipality which at the last preceding federal census had a population of less than two thousand may be made by petitions, signed in the aggregate for each candidate by not less than twenty-five qualified electors of such township or village. Nominations of candidates for any elective office in municipalities which at the last preceding federal census had a population of two thousand or more may be made by petitions signed for each candidate by qualified electors of such municipality or ward thereof, not less in number than one for each one hundred persons who voted at the next preceding general election held in said municipality or ward."

Section 4999, General Code, provides for the nomination of candidates for other offices as follows:

"Nominations of candidates for other offices, may be made by petitions, signed for each candidate by qualified electors of the state or the district, or county for which such candidates, are nominated, not less in number than one for each one hundred persons who voted at the next preceding general election in the state, district or county."

Section 5001, General Code, provides as follows:

"Such nomination papers shall contain a provision to the effect that each signer thereto thereby pledges himself to support and vote for the candidate or candidates whose nominations are therein requested. Each elector signing a nomination paper shall add to his signature his place of residence and may subscribe to one nomination to each office to be filled and no more."

This Department in Opinions of the Attorney General, 1926, at page 293, rendered an opinion on this subject in which I concur, and from which the following language is taken:

"As the sections under Chapter 7, Title XIV of the General Code provide only that the nominating petition be signed and that the residence of the signer be given, it is my opinion that the signature need not be in ink or indelible pencil and the ward and precinct of the signer need not be shown."

It is therefore my opinion that nominating petitions under Chapter 7, Title XIV, of the General Code of Ohio need not be signed in ink or indelible pencil.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*