

1294.

APPROVAL, BONDS OF ALBANY CONSOLIDATED SCHOOL DISTRICT,
ATHENS COUNTY—\$77,000.00.

COLUMBUS, OHIO, December 14, 1929.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

1295.

VILLAGE ORDINANCE—CHANGING OFFICERS' COMPENSATION—MUST
BE ENACTED AND EFFECTIVE BEFORE TERMS BEGIN—WHETHER
SUCH ORDINANCES EMERGENCY MEASURES A QUESTION OF FACT.

SYLLABUS:

1. *Whether or not an ordinance of a village increasing or diminishing the salaries of its officers may be passed as an emergency measure depends on the facts in each case.*
2. *An ordinance of a village changing the salaries of its officers must not only be enacted but must go into effect before the term of any officer begins, else it will not be effective to increase or decrease the salary so far as the particular officer is concerned.*

COLUMBUS, OHIO, December 14, 1929.

HON. G. O. MCGONAGLE, *Prosecuting Attorney, McConnelsville, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter requesting my opinion with reference to whether or not provision may at this time be made by ordinance of a village council changing the salary for the mayor and marshal of the village, so that the change will affect the salary of the mayor and marshal who were elected at the recent November election and will take office on January 1, 1930.

Inasmuch as you make no mention of a charter for this particular village, I assume, for the purposes of this opinion, that the village is not operating under a charter but under the general law and that, therefore, the general law applying to the increasing or decreasing of village officers' salaries applies. Your attention is directed to the provisions of Section 4219, General Code, with reference to the power of council in villages to fix and change the compensation of the officers of the village. Said Section 4219, General Code, reads as follows:

“Council shall fix the compensation and bonds of all officers, clerks and employes in the village government, except as otherwise provided by law. All bonds shall be made with sureties subject to the approval of the mayor. The compensation so fixed shall not be increased or diminished during the term for which any officer, clerk or employe may have been elected or appointed. Members of council may receive as compensation the sum of two dollars for each meeting, not to exceed twenty-four meetings in any one year.”

In the absence of constitutional or statutory inhibition, the compensation of officers may be changed even during their term of office, but where constitutional or statutory provisions preclude a change in the compensation of an officer either after his election or appointment or during his term of office, such provisions are mandatory and prevent either direct or indirect changes. This principle is supported by the decisions of many courts. In fact, it does not need the citation of authority. *State vs. Raine*, 49 O. S., 580.