

1021.

APPROVAL, BONDS FOR THE FAITHFUL PERFORMANCE OF THEIR DUTIES—HARRY C. MILLER, RESIDENT DIVISION DEPUTY DIRECTOR; MORGAN J. FITZPATRICK, PAYROLL CLERK; AND GEORGE W. STUDEBAKER, RESIDENT DISTRICT DEPUTY DIRECTOR.

COLUMBUS, OHIO, July 7, 1933.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted three bonds, two of which are in the penal sum of \$5,000, and the other in the penal sum of \$2,000, with surety as indicated, to cover the faithful performance of the duties of the officials as hereinafter listed:

Harry C. Miller, Resident Division Deputy Director in Division No. 7, Department of Highways—New York Casualty Company.

Morgan J. Fitzpatrick, Payroll Clerk, Ashland Division No. 3—New York Casualty Company.

George W. Studebaker, Resident District Deputy Director in Champaign and Clark Counties—New York Casualty Company.

The above mentioned bonds are evidently executed pursuant to the provisions of sections 1182, 1182-2, 1182-3, and 1183, General Code. Such sections provide, so far as pertinent:

“Sec. 1182. \* \* \*

Each division deputy director shall give bond in the sum of five thousand dollars, conditioned for the faithful performance of his duties with sureties to the approval of the state highway director. \* \* \*”

“Sec. 1182-2. The director (of highways) may appoint additional clerks and stenographers, and such other engineers, inspectors and *other employes* within the limits of the appropriation as he may deem necessary to fully carry out the provisions of this act \* \* \*.” (Italics the writer’s.)

“Sec. 1182-3. Each employe or appointee under the provisions of this act, in cases other than where the amount of the bond is herein fixed, may be required to give bond in such sum as the director may determine. All bonds hereinbefore provided for shall be conditioned upon the faithful discharge of the duties of their respective positions, and such bonds \* \* \* shall be approved as to the sufficiency of the sureties by the director, and as to legality and form by the attorney general, and be deposited with the secretary of state.”

“Sec. 1183. \* \* \* Such resident district deputy directors shall \* \* \* give bond in the sum of five thousand dollars \* \* \*.”

The first of the above listed bonds appears to be properly executed in accordance with sections 1182 and 1182-3, General Code, *supra*. However, I would suggest that the words “appointed Resident Deputy Director of Highways, State of Ohio” in the eighth line of the bond be changed to read “appointed Resident Division Deputy Director in Division No. 7, State of Ohio.” Likewise, the words “as Resident Deputy Director of Highways” in the twelfth line of the bond should be changed to read “as Resident Division Deputy Director of Highways.” Also the words “Resident Deputy Director of Highways” in the second line of the oath should be changed to read “Resident Division Deputy Director of High-

ways." I assume that the office to which Mr. Miller has been appointed is Resident *Division* Deputy Director, as the letter of transmittal accompanying the bonds so states.

The second of the above listed bonds appears to be properly executed in accordance with the provisions of sections 1182-2 and 1182-3, General Code, *supra*.

The third of the above listed bonds seems to be properly executed in accordance with the provisions of sections 1182-3 and 1183, General Code, *supra*. However, I would suggest that in the ninth line of the bond the words "in Champaign and Clark counties" be added to the words "as Resident District Deputy Director of Highways." I assume that Mr. Studebaker has been appointed Resident District Deputy Director in Champaign and Clark counties, as the letter of transmittal so states.

Finding said bonds in proper legal form, I hereby approve said bonds as to form and return them herewith.

Respectfully,  
JOHN W. BRICKER,  
*Attorney General.*

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1022.

OFFICES INCOMPATIBLE—CLERK-TREASURER OF TOWNSHIP MAY NOT AT SAME TIME HOLD POSITION OF DEPUTY-TREASURER OF COUNTY IN WHICH SAID TOWNSHIP IS LOCATED.

*SYLLABUS:*

*The clerk-treasurer of a township may not at the same time hold the position of deputy treasurer of the county in which the said township is located.*

COLUMBUS, OHIO, July 7, 1933.

HON. ERNEST L. WOLFF, *Prosecuting Attorney, Norwalk, Ohio.*

DEAR SIR:—I have before me your recent communication wherein my opinion is requested with reference to the following question:

"Can the Clerk-Treasurer of a township, while he is such, hold the position of Deputy-Treasurer of a county?"

My immediate predecessor, in the syllabus of an opinion, reported in Opinions of the Attorney General for 1931, at page 1417 of volume III, held:

"The same person may not simultaneously hold positions of city auditor and deputy auditor of the county in which the city is located."

The body of such opinion discloses reasoning which by analogy is applicable to the matter you present. In said opinion it is pointed out that the county auditor is, by the terms of section 5625-19, General Code, a member of the county budget commission, and that since section 9, General Code, provides that "a deputy when duly qualified, may perform all and singular the duties of his principal", a deputy auditor may act in the place of the auditor as a member of the county budget commission. It is further shown that under the provisions of section 5625-24, General Code, the county budget commission adjusts the amounts required by the various subdivisions in the county, and in doing so, may be compelled to make changes in the original estimates contained in the budgets submitted by the municipalities in the county. The opinion further discloses that it is sometimes