

by the required majority, the tax within the fifteen mill limitation for retirement and interest purposes required by Section 11, Article XII of the Ohio Constitution, would probably have the effect of reducing the amount available to the board of education for operating expenses.

The further matter not to be overlooked is, of course, the question of the marketability of the issue and in the event the tax necessary for retirement and interest purposes within the fifteen mill limitation appears to seriously curtail the expenditure of funds for current operating expenses of the district, this may have a serious bearing upon the matter of marketability and upon the interest rate which the board may be required to pay on the issue. A somewhat similar question was presented to my predecessor in an opinion appearing in Opinions of the Attorney General for 1927, Vol. III, p. 1742, to which you are referred. The syllabus is as follows:

"1. A \$600,000.00 bond issue properly authorized by vote of the electors of a municipality at the August, 1923, primary election, but never issued because of tax limitations, may now be issued, and the issuance thereof is a condition precedent to submitting the question of the exempting of a levy for the redemption of such bonds and for the interest from the fifteen mill limitation at the November, 1927, election under the provisions of Sections 15, et seq., of House Bill No. 80, passed by the 87th General Assembly on April 13, 1927.

2. The better procedure would be to submit the questions both of issuing the bonds and exempting the levy at the same election and on the same ballot under the provisions of Sections 2293-19 to 2293-23, General Code, both inclusive, as enacted by the 87th General Assembly in House Bill No. 1, passed April 21, 1927."

It is my opinion that under the circumstances, since bonds now issued pursuant to authorization of the electors of a school district in 1921 are payable by a tax levy within the fifteen mill limitation, which may result in seriously curtailing the legitimate and necessary functions of the board of education, on account of reducing the funds available for operating expenses, the better procedure would be to resubmit to the electors at the next general election the question of issuing bonds in the amount and for the purpose desired under the provisions of the Uniform Bond Act.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

1333.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND HERMAN C. WELLER, COLUMBUS, OHIO, FOR CONSTRUCTION OF SHELTER LODGE AT SERPENT MOUND, ADAMS COUNTY, FOR OHIO ARCHAEOLOGICAL AND HISTORICAL SOCIETY AT AN EXPENDITURE OF \$4,432.00—SURETY BOND EXECUTED BY THE GLOBE INDEMNITY COMPANY OF NEW YORK.

COLUMBUS, OHIO, December 26, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for the Ohio Archaeological and Historical Society, and Herman C. Weller, of Columbus, Ohio. This contract covers

the construction and completion of contract for Shelter Lodge at Serpent Mound, Adams County, Ohio, for the Archaeological and Historical Society, and calls for an expenditure of four thousand four hundred and thirty-two dollars (\$4,432.00).

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. You have also furnished evidence to the effect that the consent and approval of the Controlling Board has been obtained as required by Section 2 of House Bill 513, and Section XI of House Bill 510 of the 88th General Assembly. In addition, you have submitted a contract bond upon which the Globe Indemnity Company of New York 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 act 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,  
GILBERT BETTMAN,  
*Attorney General.*

1334.

CITY SOLICITOR—PERSON ELECTED TO THE OFFICE ALTHOUGH NOT  
AN ATTORNEY—INELIGIBLE TO SERVE.

**SYLLABUS:**

*Under the provisions of Section 4304 of the General Code of Ohio, no person who has been elected to the office of solicitor of a municipal corporation is eligible to assume such office unless he is an attorney and counsellor at law duly admitted to practice in this state.*

COLUMBUS, OHIO, December 26, 1929.

HON. HARRY B. REESE, *Prosecuting Attorney, Wellston, Ohio.*

DEAR SIR:—This acknowledges receipt of your letter of recent date which reads as follows:

“An unusual situation exists in the City of Wellston, Ohio. At the recent election, one not admitted to the bar defeated an attorney in the election for city solicitor. A certificate of election was issued to him and it is my understanding that he has already given bond.

In view of the situation the city auditor has asked me rather than the city solicitor to get an opinion from you as to whether or not he should approve the salary of the person elected to the office, in view of the fact that he is not an attorney at law and in view of the statute which expressly provides that the incumbent of this office shall be an attorney at law.”

Although the Ohio Constitution does not state that city solicitors shall be attorneys-at-law, the Legislature has wisely so provided.