

"Section 6295.. Every owner of a commercial car, before operating or driving such motor vehicle upon the public roads or highways of this state or permitting the same to be driven, shall file a like application.

"On all applications required by this section, the taxes payable shall be as follows:

"1. If such application be made prior to April first, the normal tax.

"2. If made on or after April first and prior to July first, three-fourths of the normal tax.

"3. If made on or after July first and prior to October first, one-half of the normal tax, and

"4. If made on or after October first, one-fourth of the normal tax."

Section 6292 G. C. is the section regulating, in the first instance, the taxes to be paid on motor vehicles, and section 6295 G. C. is the section providing for a quarterly diminution. It will be noted that in section 6295 G. C. there is no reference made to the minimum tax which may be paid in any instance.

These two sections would seemingly be in conflict, but as both sections were passed by the same legislature, and in the same act, we must give effect to both insofar as possible. It cannot be said that section 6295 G. C. would repeal by implication any part of section 6292 G. C. unless the two sections are utterly inconsistent and cannot be harmonized. It is believed that these sections may be harmonized by saying that for commercial cars there shall be the diminution provided for in section 6292 G. C. until the minimum tax of eight dollars for the year 1925 is reached. This view of the two sections would leave both sections operative except where the minimum fee is less than eight dollars.

You are, therefore, advised that the taxes for commercial cars are subject to the quarterly diminution provided by section 6295 G. C., but is limited by the minimum tax provided in section 6292 G. C.

Respectfully,

C. C. CRABBE,

Attorney General.

2585.

BONDS CANNOT BE ISSUED BY BOARDS OF EDUCATION UNDER A FORMER APPROVAL BY THE ELECTORS, WHEN SAID BONDS ARE TO BE ISSUED FOR A PURPOSE NOT CONTEMPLATED BY THE FORMER ISSUE.

SYLLABUS:

Bonds cannot be issued by boards of education under a former approval by the electors, when said bonds are to be issued for a purpose not contemplated by the former issue, although the full amount of the former issue has not been sold and delivered.

COLUMBUS, OHIO, June 22, 1925.

HON. JOHN E. PRIDDY, *Prosecuting Attorney, Findlay, Ohio.*

DEAR SIR:—This acknowledges receipt of the following communication from you:

"On April 27, 1920, Liberty township centralized school district, Hancock county, voted to issue \$170,000.00 to purchase a suitable site in said township and to erect thereon and to equip and furnish a new school house to be used for high school and grade school purposes. On May 10, 1920, the board of education of said district passed a resolution authorizing the issuance of bonds in the sum of \$170,000.00 for the above purpose and published a notice of sale by which said notice of sale of \$170,000.00 proposals to be received on June 16, 1920.

"Their minute book is somewhat confused but the fact is that they sold \$140,000.00 worth of bonds only from the proceeds of which they erected a building for the purposes above enumerated which was completed in 1921 and has been in use for grade and high school purposes since that time.

"Now the building has become crowded and they need additional room. The board of education has had plans prepared and it is now proposed to build an addition to the building and the board is desirous of issuing bonds in the sum of \$10,000.00 under the authority of the election held in 1920 by which an issue of \$170,000.00 was authorized as stated above.

"A question arises in my mind as to the authority of the board to issue bonds to build an addition to the present school house under the authority above noted.

The purpose for which the \$170,000.00 was issued has been accomplished that is, a building has been built and completed and equipped and now after four years it is deemed necessary by the board that additional room be provided and this is proposed to be done by building an addition to the present building.

"Has the board authority to issue bonds in the sum of \$10,000.00 under the authority of the election held in 1920 at which time an issue of \$170,000.00 was authorized?"

◇ Your letter recites that the record is confused, but the fact is, the board of education sold \$140,000.00 worth of bonds only, when \$170,000.00 had been advertised for sale.

There may have been two reasons why the entire issue of \$170,000.00 in bonds were not sold and delivered. Either that the bond buyers refused to accept the full issue on account of limitations against the remainder thereof, or that it was provided by the board of education that only \$140,000.00 were required for the purposes for which the issue has been sanctioned by the electors. In either case, the further issue of the remainder of the bonds would be precluded, either by law, or by the act of the issuing authority.

Section 7625, General Code, provides :

"When the board of education of any school district determines that for the proper accommodation of the schools of such district it is necessary to purchase a site or sites to erect a schoolhouse or houses, to complete a partially built school house, to enlarge, repair or furnish a schoolhouse, or to purchase real estate for playground for children, or to do any or all of such things, that the funds at its disposal or that can be raised under the provisions of sections 7629 and 7630, are not sufficient to accomplish the purpose and that a bond issue is necessary, the board shall make an estimate of the probable amount of money required for such purpose or purposes and at a general election or special election called for that purpose, submit to the electors of the district the question of the issuing of bonds for the amount so estimated. Notices of the election required herein shall be given in the manner provided by law for school elections."

Your letter recites that the school has become crowded since the former issue was made, and that they now need additional room, and that the board now contemplates an issue of bonds for the purpose of building an addition to the building.

It is observed that no such purpose was recited in the resolution providing for the former issue. The facts are further presented that the full purposes for which the former issue was made have been accomplished, and that the original building has been fully completed and equipped.

The present issue of \$10,000.00 must necessarily be considered an independent issue, and for a different purpose than that contemplated at the time, and by the proceedings for the former issue. This conclusion is warranted by the facts as presented by you, and this being the case, it would not now be legal for a new issue for a different purpose to be made upon the approval of the electors upon a different proposition more than four years ago.

If it could be concluded that a part of the former issue could now be delivered, all that would be required would be the delivery of the bonds under a former advertisement of sale, but no such conclusion can be reached, and in view of the fact that this must be considered as a new independent issue, it will be necessary that full and different proceedings for such issue shall be had, and that if such amount cannot be raised under the provisions of section 7629, General Code, the issue for the purposes contemplated must be submitted to the electors for approval.

Respectfully,

C. C. CRABBE,
Attorney General.

2586.

DITCH IMPROVEMENT—COMPENSATION ALLOWED COUNTY COMMISSIONERS UNDER SECTION 6502 G. C.

SYLLABUS:

County commissioners who have actually performed duties in connection with ditch improvement, in which former county commissioners have received compensation for four days work, may be allowed the compensation provided in section 6502, General Code.

COLUMBUS, OHIO, June 22, 1925.

HON. FRANK WIEDEMANN, *Prosecuting Attorney, Marion, Ohio.*

DEAR SIR:—I am in receipt of your communication as follows:

“In 1924 the board of county commissioners of Marion county, Ohio, performed certain duties on a county ditch, under section 6502 of the General Code, two of these commissioners drew pay for four days for these services. In 1925 two new commissioners took office. It was necessary for the new commissioners to perform certain duties on the same ditch. Each one of the new commissioners performed four days work on this ditch. Will it be possible for them to draw pay under section 6502 of the General Code for the four days work that they performed on this ditch?”

Section 6502, G. C., provides that: