

collected by the county treasurer for the first half of the tax year 1933, even though the date of such settlement is later than February 15, 1934.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2277.

LIQUOR CONTROL ACT—DIRECTOR OF DEPARTMENT OF LIQUOR CONTROL HAS SOLE AUTHORITY TO ENTER INTO CONTRACTS FOR PURCHASE OF INTOXICATING LIQUOR AND OTHER NECESSARY EQUIPMENT FOR STATE LIQUOR STORES.

SYLLABUS:

By virtue of the provisions of the Liquor Control Act, the Director of the Department of Liquor Control has sole authority to enter into contracts on behalf of the Department for the purchase of intoxicating liquor and other necessary equipment for state liquor stores. Such purchases should be made pursuant to regulations that may be adopted by the Board under authority of section 6064-3, General Code.

COLUMBUS, OHIO, February 10, 1934.

Board of Liquor Control, Columbus, Ohio.

GENTLEMEN:—This will acknowledge your letter of recent date which reads in part as follows:

“The Board desires to know whether under the provisions of the Liquor Control Act the Director of this Department has sole authority to enter into contracts in behalf of the Department or whether the Board of Liquor Control has co-ordinate or supervisory power with the Director in the matter of entering into liquor and other contracts.”

Section 6064-7, General Code, reads:

“The director of liquor control shall be the executive secretary of the board of liquor control. Subject only to the powers and duties of the board as set forth in section 3 of this act, all the powers and duties by this act vested in or imposed upon the department shall be exercised and performed by the director, who shall administer the affairs of the department, excepting as otherwise specified in this act.”

Section 6064-8, General Code, provides in part as follows:

“The department of liquor control shall have all the powers and duties vested in and imposed upon a department of state administration by sections 154-17, 154-18, 154-19 and 154-22 of the General Code; and all the powers of the board of liquor control which shall be exercised by the board in the name of the department. In addition thereto, the department shall have and exercise the following powers:

* * * * *

3. To put into operation, manage and control a system of state liquor stores for the sale of spirituous liquor at retail and to holders of permits authorizing the sale of such liquor, to be established throughout the state as hereinafter provided; and thereby and by means of such manufacturing plants, distributing and bottling plants, warehouses and other facilities as it may deem expedient, in connection therewith, to establish and maintain a state monopoly of the distribution of such liquor and the sale thereof in packages or containers; and for such purpose to manufacture, *buy, import*, possess, and sell *spirituous liquors in the manner provided in this act and in the regulations adopted and promulgated by the board pursuant to this act*; to lease or in any manner except by purchase, acquire the use of any land or building required for any of such purposes; to purchase such equipment as may be required to effectuate the purposes of this act; to borrow money to inaugurate and carry on its business, and to issue, sign, endorse, and accept, notes, checks, and bills of exchange; but any and all obligations of the department created under authority of this paragraph shall be a charge only upon the moneys received by the department from the sale of spirituous liquor pursuant to this act and its other business transactions in connection therewith, and shall not be general obligations of the state of Ohio." (Italics the writer's.)

The Department of Liquor Control of the State of Ohio is composed of a Board of Liquor Control and a Director of the Department of Liquor Control. Section 6064-2, General Code. The powers and duties of the Board of Liquor Control and the Director of the Department are set forth in sections 6064-3, 6064-7 and 6064-8, General Code. Section 6064-7, *supra*, specifically provides that the Director of the Department of Liquor Control is to exercise all the powers vested in and conferred upon the Department of Liquor Control, except those conferred upon the Board of Liquor Control in section 6064-3. A careful reading of section 6064-3 clearly indicates that the legislature has not conferred upon the Board of Liquor Control the power to enter into any contracts on behalf of the Department of Liquor Control in respect to the purchase of intoxicating liquor or other necessary material or equipment. The power to make such purchases has been conferred solely upon the Director of the Department of Liquor Control. Sections 6064-7 and 6064-8, *supra*. Furthermore, it appears evident that the legislature has vested in the Director, the power to purchase intoxicating liquor as well as other equipment for state liquor stores, without vesting in the Board co-ordinate power in making such purchases. The Director of the Department of Liquor Control may, however, submit to the Board of Liquor Control for recommendation or determination any matter in connection with such purchases. Paragraph 7 of section 6064-3, relating to the powers of the Board, provides as follows:

"To consider and make recommendations upon any matter which the director may submit to it for recommendation and to pass upon and determine any matter which he shall submit to it for determination."

It is observed that the power to buy and import spirituous liquors, which, as above indicated, is solely vested in the Director of the Department, is qualified

by the provision that such purchase or importation shall be made in the manner provided in the act and in the regulations adopted and promulgated by the Board pursuant to the act. It is obvious that any regulation adopted by the Board under authority of this clause could not confer upon the Board authority to execute contracts of purchase on behalf of the Department. This, for the reason that the concluding clause of section 3, relating to the power of the Board, provides that, "excepting as herein expressly provided, the board shall not have or exercise executive or administrative duties or powers". The entering into or execution of purchase contracts clearly constitutes the exercise of an executive or administrative function.

It is well established that public officers, boards, bureaus and commissions have only such powers as are expressly conferred by law and as are necessary to effectuate those powers so conferred. *State, ex rel., vs. Menning*, 95 O. S. 97; *State, ex rel., vs. Cook*, 103 O. S. 465. The primary purpose of all statutory construction is to ascertain the intention of the legislature, which intention must be sought in the language employed. The fourth branch of the syllabus of the case of *Cochrel vs. Robinson*, 113 O. S. 526, reads as follows:

"In the construction of a statute the primary duty of the court is to give effect to the intention of the Legislature enacting it. Such intention is to be sought in the language employed and the apparent purpose to be subserved, and such a construction adopted which permits the statute and its various parts to be construed as a whole and give effect to the paramount object to be attained."

In view of the foregoing and in specific answer to your inquiry, it is my opinion that, by virtue of the provisions of the Liquor Control Act, the Director of the Department of Liquor Control has sole authority to enter into contracts on behalf of the Department for the purchase of intoxicating liquor and other necessary equipment for state liquor stores. Such purchases should be made pursuant to regulations that may be adopted by the Board under authority of section 6064-3, General Code.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2278.

APPROVAL, BONDS OF LAFFERTY RURAL SCHOOL DISTRICT, BELMONT COUNTY, OHIO—\$1,950.00.

COLUMBUS, OHIO, February 10, 1934.

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