

1899.

APPROVAL—BONDS, CINCINNATI CITY SCHOOL DISTRICT, HAMILTON COUNTY, OHIO, \$30,000.00, PART OF ISSUE DATED JULY 1, 1931.

COLUMBUS, OHIO, February 7, 1938.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN :

RE: Bonds of Cincinnati City School Dist., Hamilton County, Ohio, \$30,000.00.

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise part of an issue of school bonds in the aggregate amount of \$570,000, of an \$8,500,000 authorization by election of November 4, 1924, dated July 1, 1931, bearing interest at the rate of $3\frac{3}{4}\%$ per annum.

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute valid and legal obligations of said school district.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

1900.

RE-ASSESSMENTS PAYABLE IN INSTALLMENTS AND BONDS, NOTES OR CERTIFICATES OF INDEBTEDNESS—ISSUED UNDER SECTION 2293-5r G. C.—CLERK OF COUNCIL SHALL CERTIFY FOR COLLECTION ANNUALLY TO COUNTY AUDITOR, ENTIRE RE-ASSESSMENT INSTALLMENTS, AMOUNTS AND YEARS WITHIN WHICH PAYABLE.

SYLLABUS:

When re-assessments have been levied by a municipality payable in installments and bonds, notes or certificates of indebtedness issued in anticipation of the collection thereof, under the provisions of Section

2293-5r, *General Code*, the clerk of council shall certify for collection annually to the county auditor the entire re-assessment installments, stating the amounts of the re-assessment installments and the years within which said installments are payable.

COLUMBUS, OHIO, February 8, 1938.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN: I am in receipt of your letter of recent date requesting my opinion, which reads as follows:

"In an opinion previously rendered to this Department, interpreting Section 3892 of the General Code, it was held that assessments including all installments should be certified to the county auditor on or before the second Monday in September of each year.

The question has now arisen as to an interpretation of Section 2293-5r, relative to the certification of reassessments, in view of the wording of the latter part of said section quoted as follows:

'The fiscal officer shall thereafter certify for collection annually only the reassessment installments and shall not certify the installments of original assessments.'

In this connection may we inquire as follows:

Question. Under the provisions of Section 2293-5r of the General Code, are reassessments levied under authority of the preceding section of the General Code, required to be certified in annual installments, each year, or may certification be made at one time for all of the annual installments due over the term of years for which same have been levied?"

That part of Section 3892, General Code, pertinent to the question raised in your letter reads as follows:

"When any special assessment is made, has been confirmed by council, and bonds, notes or certificates of indebtedness of the corporation are issued in anticipation of the collection thereof, the clerk of the council, on or before the second Monday in September, each year, shall certify such assessment to the county auditor stating the amounts and the time of payment.
* * *"

You will note from the language of that part of Section 3892, above quoted, that the clerk of council on or before the second Monday in Sep-

tember *each year* shall certify such assessment to the county auditor. This office has placed an interpretation on the words "each year" and I direct your attention to a former Attorney General's opinion for the year 1931, Vol. I, page 358, the syllabus reading as follows:

"When special assessments have been levied by a municipality, payable in installments, and bonds, notes or certificates of indebtedness issued in anticipation of the collection thereof, under the provisions of Section 3892, General Code, the clerk of council shall, on or before the second Monday in September each year, certify to the county auditor the entire assessments, stating the amounts of the installments and the years within which said installments are payable."

The question submitted to the then Attorney General for his consideration was whether or not the words "each year" referred to the installments of the assessments or whether or not they referred to the total assessment and would one certification of the total assessments be sufficient under the meaning of Section 3892. On page 359 of this opinion a former Attorney General's opinion for the years 1903 to 1908 at page 92 was quoted. This quotation reads as follows:

"I beg to acknowledge the receipt of yours of the 9th inst., and considering Section 94 of the Municipal Code, covering the certifying of estimates for local improvements, am of the opinion that the clerk of the council should certify all assessments, on or before the second Monday in September, to the county auditor for collection, and that the same should not be certified in installments annually, but that when the term 'assessment' is used it is meant to embrace all installments thereof, and when they are unpaid they should all be certified together so that the amount of the liens upon the property, arising by reason of assessments, may be able to be shown by an examination of the record of the same in the county auditor's office."

Section 2293-5r, General Code, reads as follows:

"After the taxing authority has approved said re-assessments, like proceedings shall be had for the levy, certification, payment and collection of said re-assessments as apply to the levy, certification, payment and collection of original assessments, and all provisions of law relating to the levy, certification, payment and collection of original assessments, except so far as in this act otherwise set forth, shall govern such levy, certification, pay-

ment and collection of such reassessments, and excepting that such certification shall distinctly state the fact that it is a re-assessment, and shall specify the original assessments for which the same is substituted. Upon certification of the first installment of such re-assessment for collection to the county auditor and to the county recorder when registered title is involved, the county auditor and also the county recorder in case of registered lands, shall cancel the certified installments of original assessments so re-assessed against the lots or parcels on which the re-assessment has been made and the interest and penalty thereon, as the same stand on the tax list and duplicate, and on the original certificate of title. *Any special assessment or assessments re-assessed as provided in this section shall not again be re-assessed. The fiscal officer shall thereafter certify for collection annually only the re-assessment installments and shall not certify the installments of the original assessment.*" (Italics the writer's).

It will be noted, therefore, from a reading of the first sentence of the above quoted section that is underscored that there is no difference in the procedure in certifying original assessments and re-assessments other than that which might appear later in the section. The only language which might give rise to a different procedure is the last sentence contained in the section which I have underscored. You will note in this sentence the words "annually" and "re-assessment installments." To my mind, the word "annually" must be given the same interpretation as the words "each year" as used in Section 3892, General Code, and likewise the term "re-assessment installments" is meant to embrace all reassessment installments thereof the same as the word "assessment," as used in Section 3892, has been interpreted to mean all installments. The last part of Section 2293-5r, above quoted and underscored, to my mind is directory to this extent—that when a re-assessment has been provided for in the procedure of refunding certain special assessments, the re-assessment and all installments thereof take the place of the original assessments and such original assessments thereafter need not and should not be certified for collection.

In view of the foregoing and in specific answer to your question, I am of the opinion that when re-assessments have been levied by a municipality payable in installments and bonds, notes or certificates of indebtedness issued in anticipation of the collection thereof under the provisions of Section 2293-5r, General Code, the clerk of council shall certify for collection annually to the county auditor the entire re-assess-

ment installments, stating the amounts of the re-assessment installments and the years within which said installments are payable.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1901.

APPROVAL—ARTICLES OF INCORPORATION, THE RICHLAND EQUITY FIRE AND LIGHTNING PROTECTED MUTUAL INSURANCE ASSOCIATION OF SHELBY, OHIO.

COLUMBUS, OHIO, February 8, 1938.

HON. WILLIAM J. KENNEDY, *Secretary of State, Columbus, Ohio.*

DEAR SIR: I have examined the certificate of amendment to the articles of The Richland Equity Fire and Lightning Protected Mutual Insurance Association of Shelby, Ohio, which you have submitted for my approval.

Finding the same not to be inconsistent with the Constitution or laws of the United States or of the State of Ohio, I have endorsed my approval thereon and return the same to you herewith.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1902.

REGISTRAR OF MOTOR VEHICLES—FINANCIAL RESPONSIBILITY LAW—DRIVERS' LICENSE LAW—SECTIONS 6298-1, 6296-1 ET SEQ., G. C.—NO AUTHORITY TO RESTORE DRIVER'S LICENSE SUSPENDED OR REVOKED BY TRIAL JUDGE—WHERE COURT UNDER SECTION 6296-17 G. C. SUSPENDS OR REVOKES LICENSE—SUCH COURT MAY NOT LATER MODIFY, CHANGE OR RESTORE SUCH LICENSE.

SYLLABUS:

1. *The Registrar of Motor Vehicles has no authority either under the provisions of the Financial Responsibility Law (Sections 6298-1, et*