

2250.

APPROVAL—BONDS, CITY OF CLEVELAND, CUYAHOGA COUNTY, OHIO, \$10,000.00, PART OF ISSUE DATED JUNE 1, 1935.

COLUMBUS, OHIO, April 7, 1938.

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

GENTLEMEN:

RE: Bonds of City of Cleveland, Cuyahoga County, Ohio, \$10,000.00.

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise part of an issue of city's portion, paving and sewer bonds, fourth series, in the aggregate amount of \$300,000 of a \$5,000,000 authorization, dated June 1, 1935, 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 city.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

2251.

INITIATIVE PETITION—PROPOSED AMENDMENT TO ARTICLE XII, SECTION 2, CONSTITUTION—PROHIBITS SALES TAX—VARIOUS TYPES OF TAXATION—REAL ESTATE, PERSONAL PROPERTY—LIMITATIONS—INCOME TAX—SEE OPINION No. 2513, MAY 26, 1938.

COLUMBUS, OHIO, April 8, 1938.

MR. WALTER BAERTSCHI, *Maumee, Ohio.*

DEAR SIR: You have submitted for my examination a written petition signed by one hundred qualified electors of this state, containing

a proposed constitutional amendment and a summary of the same under Section 4785-175, General Code. It is proposed to amend Section 2 of Article XII, to read as follows:

“No sales tax, so-called, or excise tax shall be levied or collected upon the sale, purchase, manufacture, consumption, distribution or exchange of personal property, goods, wares, merchandise or services, except taxes upon the sale, purchase, manufacture or distribution of gasoline or other liquid motor fuel, solid or powdered motor fuel, alcoholic, vinous or maltous beverages, materials used in the manufacture thereof, tobacco and tobacco products.

No ad valorem tax shall be assessed, levied or collected on any real or personal property, or any evidence of title to or interest therein. Assessments may be levied on real estate, not exceeding fifty (50) per cent of the value of the lots or lands, distributed over a period of ten years, for general or special improvements, and for the retirement of bonds issued therefor. Assessments for such purposes, in excess of 50% of the value, may be levied when approved by the electors of the district affected thereby at a general or special election.

Section 8 of article 12 is hereby repealed; but none of the provisions of this section shall affect or modify Section 10 of Article 12, laws enacted in conformity therewith, or laws providing for the taxation of financial institutions organized under the laws of the United States and other moneyed capital in competition therewith.

In lieu of ad valorem taxes, laws shall be enacted to provide for the levy and collection of taxes on net incomes at a scale of rates graduated in proportion to the amounts thereof.

Incomes of \$1,200.00 or less, per annum shall not be taxed in excess of one per cent (1%) for all local and state purposes; but laws may be enacted authorizing additional taxes in excess of such limitation when approved by a majority of the electors voting at an election in the taxing district affected thereby.

All employers of persons whose compensation is taxable shall deduct therefrom, and remit to the proper county officer, the pro rata proportion of the annual income tax of each employee in such manner and at such intervals as shall be hereafter provided by law.

The General Assembly shall enact legislation to effectuate the purposes of this section. It may provide for deductions from income expended for religious, charitable or educational purposes, or for the support of dependent persons; but no income shall be exempted by classification predicated on occupation or the source from which income is derived.

Upon failure to enact income tax legislation, the Auditor of State shall establish and certify for collection the requisite rates together with rules and regulations for raising revenues for state and local government.

This amendment when adopted shall take precedence over any others in conflict therewith notwithstanding the provisions of Section 1-B of Article 2, and remain effective until expressly repealed."

The summary of this amendment reads as follows:

"The Constitutional Amendment proposed by this Petition repeals Section 2 of Article XII of the Constitution of Ohio, and substitutes in lieu thereof a new Section 2 of Article XII.

It prohibits the Sales Tax, so-called, or excise tax except upon motor fuel, alcoholic beverages and tobacco products.

Prohibits the taxing of real estate and personal property.

It limits assessments against real estate to fifty (50) per cent of value of lots or lands distributed over a period of ten years (10) and permits higher assessments only by vote of electors in taxing district affected.

Provides for the taxing of net incomes at a scale of rates graduated in proportion to the amounts thereof, and places a limitation of one (1%) per cent tax on first \$1,200.00 of annual incomes, but permits additional levies outside the limitation when voted for by a majority of the electors in a taxing district.

It provides that employers shall deduct the income tax in such manner and at such intervals as hereafter provided by law and remit to proper county officer.

General Assembly may provide for deductions from income expended for religious, charitable or educational purposes, or for the support of dependent persons, but no income shall be exempted because of occupation or source from which income is derived.

It provides upon failure to enact income tax legislation, the Auditor of State shall establish and certify for collection

the requisite rates together with rules and regulations for raising revenues for state and local government, and the amendment when adopted shall take precedence over any others in conflict therewith."

I am of the opinion that the foregoing is a fair and truthful statement of the proposed constitutional amendment and accordingly submit for uses provided by law the following certification.

"Without passing upon the advisability of the adoption of the proposed constitutional amendment, but pursuant to the duties imposed upon me under the provisions of Section 4785-175, General Code, I hereby certify that the foregoing summary is a fair and truthful statement of the proposed constitutional amendment. HERBERT S. DUFFY, Attorney General."

Respectfully,

HERBERT S. DUFFY,
Attorney General.

2252.

APPROVAL — BONDS, CITY OF TOLEDO, LUCAS COUNTY, OHIO, \$10,000.00, PART OF ISSUE DATED JANUARY 1, 1931.

COLUMBUS, OHIO, April 8, 1938.

State Employes Retirement Board, Columbus, Ohio.

GENTLEMEN :

RE: Bonds of City of Toledo, Lucas County, Ohio,
\$10,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above city dated January 1, 1931. The transcript relative to this issue was approved by this office in an opinion rendered to the Teachers Retirement System under date of April 20, 1936, being Opinion No. 5389.

It is accordingly my opinion that these bonds constitute valid and legal obligations of said city.

Respectfully,

HERBERT S. DUFFY,
Attorney General.