

These arguments all tend to show not only that the salaries of the regular officers of the municipality are not within the intendment of section 3806 of the General Code, but also that the salaries of members of the police and fire departments are likewise excepted. This conclusion is to some degree inconsistent with

Pittinger vs. Wellsville, 75 O. S. 508;
 State vs. Hoffman, 25 O. S. 328; and
 Urig vs. Reading, 11 O. D. 704.

but these cases were all decided before the application to municipal corporations of the civil service laws, and were uninfluenced by any such law. They all involved employment by the month or some other period of time less than a year, and in holding that the Burns law certificate applied to the act of making such employment encountered no such difficulty as has been encountered herein in dealing with the civil service laws which by making tenure uncertain likewise make the amount involved so uncertain that it cannot be certified to.

It is worthy of note that in *Pittinger vs. Wellsville*, supra, the city solicitor admitted (see page 515) that the appointment or election of a city officer was not subject to the Burns law.

For all these reasons, it is concluded that the necessarily implied exceptions exist in favor of practically all permanent civil service employes on the one hand and all established municipal officers on the other hand, so that section 3806 applies only to the employment of casual and temporary employes as to which employment the amount of money involved can be definitely ascertained. If section 3806 does not apply then it must follow that when an ordinance is passed by council creating a municipal office, or when a like ordinance is passed establishing the personnel of the police and fire departments, and persons are elected, appointed or employed to fill any position thus established, at salaries fixed by ordinance of council, a potential liability exists against the municipality without any compliance with section 3806 of the General Code. That being the case, the tenure of the office or the faithful rendition of service under the appointment creates an accrued liability against the city or municipality which the municipality is bound to pay. The municipality is, in short, "indebted," and no reason is perceived why section 3916 of the General Code does not authorize the borrowing of money to pay any such accrued liability incurred prior to January, 1924.

The second question as re-framed by this department is therefore answered in the affirmative.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

2969.

APPROVAL, BONDS OF JACKSON TOWNSHIP RURAL SCHOOL DISTRICT, FRANKLIN COUNTY, IN AMOUNT OF \$28,000.

COLUMBUS, OHIO, April 6, 1922.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.