

you obtained the same would not have the effect of obviating information which the lessee was required by statute to set out in her application.

For the reasons above stated, this application and the findings made by you as Conservation Commissioner thereof are disapproved and the same, together with the copies thereof, are herewith returned.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5418.

APPROVAL—BONDS OF CITY OF DAYTON, MONTGOMERY COUNTY, OHIO, \$172,000.00.

COLUMBUS, OHIO, April 27, 1936.

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

5419.

APPROVAL—BONDS OF CITY OF DAYTON, MONTGOMERY COUNTY, OHIO, \$183,000.00.

COLUMBUS, OHIO, April 27, 1936.

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

5420.

ELECTION LAW—TERM OF CANDIDATES—AMENDMENT TO STATUTE CHANGING TERM EFFECTIVE PRIOR TO ELECTION, CONTROLLING AS TO SUCH ELECTION.

SYLLABUS:

An amendment of the law changing the term of an elective office, which amendment becomes effective after candidates for such office have been nominated but before the date of election, is controlling as to the term of any candidate elected at such election.

COLUMBUS, OHIO, April 27, 1936.

HON. GEORGE S. MYERS, *Secretary of State, Columbus, Ohio.*

DEAR SIR: The prosecuting attorneys of Carroll and Tuscarawas Counties have requested the opinion of this office as to whether or not House Bill No. 603, providing four year terms of office for the offices of county treasurers, county recorders, sheriffs, coroners, clerks of the courts of common pleas and prosecuting attorneys as recently enacted by the 91st General Assembly, first special session, shall be applicable to such officers as are elected at the ensuing November, 1936, election, in view of the fact that such act was not passed as an emergency measure and will not become effective until after the primary election of this year. The present statutory term of such officers is two years instead of four. Because of the general interest in this question, I am directing my opinion to you.

House Bill No. 603 was enacted pursuant to the authority conferred upon the General Assembly by Article XVII, Section 2 of the Constitution which provides that the term of office of all elective county officers shall be such even number of years not exceeding four years as may be prescribed by the General Assembly.

An examination of the decisions of the various courts with respect to the effect of statutes changing the term of elective offices discloses many cases where it has been held that such amendments have no application to incumbents who are in office at the time of the effective date of such amendments. The recent decision of the Supreme Court of this state to that effect is the case of Board of Elections v. State ex rel., 128 O. S. 273, holding the so-called Term Extender Bill of the 90th General Assembly which sought to extend the term of county recorders then in office to be unconstitutional. This decision was grounded upon the principle that the choosing of an officer at an election is a choosing for the term provided by law at the time of the election. I find no single authority to the effect that the term prescribed at the time of nomination whether at a party primary, a party convention, or by petition, must be controlling in the event of a change of the term subsequent to such nomination and prior to the date of the election. On the contrary, it appears to be universally recognized that the term provided at the date of the election when the electors select an incumbent for a given office for a specified term, shall be controlling. In Allison v. Massey, 235 Pac. 192 (Okla.), the sixth branch of the syllabus by the court is as follows:

"In view of constitution article 25 section 18, impliedly recognizing right to change terms of county and township officials, legislature may increase or diminish term of office of

members of board of county commissioners by enactment before election thereof."

In 46 C. J. 967, the text is as follows:

"A constitutional provision that no law shall extend the term of any officer after his election does not exclude a change by constitutional amendment. Such a provision, while it is an inhibition against the legislature extending the term for which an officer is elected after the election of such an officer, even though the length of such term is not provided for by the constitution, does not affect the right of the legislature, otherwise not prohibited from increasing or diminishing the term of office of public officers where the enactment is before the election of the officers."

It is my opinion that an amendment of the law changing the term of an elective office which becomes effective prior to the date of election for such office, is controlling as to the term of any person elected thereto even though such amendment was not effective at the time candidates for such office were nominated therefor. It accordingly follows that the officers whose terms are provided in House Bill No. 603 will be elected for the terms therein provided at the ensuing November election.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5421.

APPROVAL—APPLICATION FOR REDUCTIONS OF CURRENT AND DELINQUENT RENTALS ON RESERVOIR LAND LEASE AT SUMMERLAND BEACH, FAIRFIELD COUNTY, OHIO—CARRIE HICKMON AND ZULA LINTON.

COLUMBUS, OHIO, April 28, 1936.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: This is to acknowledge the receipt of a recent communication over the signature of the Chief of the Bureau of Inland Lakes and Parks, enclosing an application filed with you by one Zula Linton for reductions in the amounts of current and delinquent rentals on a certain reservoir land lease executed to her and to one Carrie Hickmon (B. L.