

1611.

APPROVAL, FINAL RESOLUTIONS, ROAD IMPROVEMENTS IN THE FOLLOWING COUNTIES: FRANKLIN, DEFIANCE AND CLINTON.

COLUMBUS, OHIO, July 11, 1924.

HON. L. A. BOULAY, *Director, Department of Highways and Public Works, Columbus, Ohio.*

1612.

APPROVAL, FINAL RESOLUTION, IMPROVEMENT ON THE CINCINNATI-CHILLICOTHE ROAD.

COLUMBUS, OHIO, July 11, 1924.

HON. L. A. BOULAY, *Director, Department of Highways and Public Works, Columbus, Ohio.*

1613.

MUNICIPALITY—AUTHORITY OF COUNCIL TO DETERMINE THE SUFFICIENCY OF SECURITY OFFERED BY INSTITUTIONS BIDDING FOR DEPOSIT OF FUNDS UNDER SECTION 4295 G. C. DISCUSSED.

SYLLABUS:

Section 4296 of the General Code does not authorize council to delegate the authority to determine the sufficiency of the security offered, by institutions bidding for the deposit of a municipality under the provisions of section 4295, to a trust company.

COLUMBUS, OHIO, July 14, 1924.

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

Gentlemen:—

You request my opinion on the following:

“Section 4295 General Code provides for the depositing of money by a municipality and for the securing thereof.

Section 4296 General Code provides that :

"In such ordinance the council may determine the method by which such bids shall be received, the authority which shall receive them, and which shall determine the sufficiency of the security offered, the time for the contracts for which deposits of public money may be made, and all details for carrying into effect the authority here given. Proceedings in connection with such competitive bidding and the deposit of money shall be conducted in such manner as to insure full publicity, and shall be open at all times to the inspection of any citizen. As to any deposits made under authority for an ordinance of the council, pursuant hereof, if the treasurer has exercised due care, neither he nor his bondsmen shall be liable for any loss occasioned thereby."

Question : Is the above section of the General Code authority for council to provide that the treasurer of a city shall have the authority to determine the sufficiency of the security offered and that such treasurer may delegate this duty to a Trust Company and pay from an appropriation for such service?"

As suggested in your inquiry, section 4296, which you quote, is a part of the statutes relating to the treasurer and the depositing of public funds in a municipality. The section preceding authorizes council to provide by ordinance for the deposit of public moneys in the hands of the treasurer with banks in the municipality which offer the highest rate of interest after competitive bidding.

Section 4296 relates solely to the method of carrying out the details of the requirements made in the preceding section. In the language authorizing the council to determine the "authority" which shall receive bids and determine the sufficiency of the security offered, etc., it is believed to be clear that it was not the intent of such enactment to refer to a person or institution not officially connected with the municipal government. In other words, the council may confer such authority upon the treasurer or clerk, but would have no authority to designate some one who is not a qualified official or employe of the municipality. In other words, the word "authority" is to be read in connection with this question as being synonymous with "officer." Such council being without authority to designate those other than public officers to exercise such functions, it would necessarily follow that it would be without power to attempt to delegate a part of such authority to a trust company.

It is my opinion, and you are advised, that section 4296 does not authorize council to delegate the authority to determine the sufficiency of the security offered by institutions bidding for the deposit of a municipality under the provisions of section 4295, to a trust company.

Respectfully,
C. C. CRABBE,
Attorney General.