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1. BONDS—SURETY—REQUIRED BY PROBATE JUDGE, AUDITOR, TREASURER, CLERK OF COURTS, SHERIFF, ENGINEER AND RECORDER OF ANY COUNTY—FAITHFUL PERFORMANCE OF OFFICIAL DUTIES OF EMPLOYES—SINGLE BLANKET BOND MAY BE EXECUTED —IF BOND EXECUTED BY DULY LICENSED SURETY COMPANY, PREMIUM MUST BE PAID BY COUNTY—SECTION 2981 G. C.

2. NOT REQUISITE ALL OFFICERS SHALL JOIN IN PLAN—ANY MAY ELECT TO REQUIRE SEPARATE BONDS—BLANKET BONDS—LIMITED TO RESPECTIVE DEPARTMENTS.

SYLLABUS:

1. The provisions of Section 2981, General Code, relative to bonds that may be required by the probate jugde, auditor, treasurer, clerk of courts, sheriff, engineer and recorder of any county, securing the faithful performance of the official duties of employes of each of such offices, may be fully complied with by the execution of a single blanket bond covering such of the employes of each of such offices as each such officer may require, in such amount as he deems proper, and with sureties approved by him. If such bond is executed by a duly licensed surety company, the premium thereon must be paid by the county.

2. It is not requisite that all of said officers shall join in said plan, but any of them may elect to require separate bonds for their respective employes or blanket bonds limited to their respective departments.

Columbus, Ohio, July 17, 1951

Hon. Clarke B. Barbour, Prosecuting Attorney
Muskingum County, Zanesville, Ohio

Dear Sir:

I have before me your request for my opinion, reading as follows:

"It has been proposed by an insurance group of this county that a blanket bond be purchased to cover against dishonesty losses caused by employes of the county, other than those officers or employes required to file a bond to qualify for office. The State Auditing Department has questioned the legality of this purchase.

"Bonds covering the deputies or clerks of officers, were purchased on an individual basis until a few years ago when the surety companies brought out the blanket bond and designed it to cover all employees of a certain department e. g. all employees of the Treasurer's Office or all employees of the Auditor's Office, etc. As of March 1950, the Surety Association lifted the restriction on departments and authorized a county to purchase insurance covering all employees under a single blanket bond. This method has been approved by the Ohio Insurance Department.

"The objection by the examining department to the proposed method of writing the blanket bond, stems from the Ohio Code—Section 2981—which reads in part as follows:

> 'Each of such officers may require such of his employes as he deems proper to give bond to the State in an amount to be fixed by such officer with sureties approved by him, conditioned for the faithful performance of their official duties. Such bond with the approval of such officer, endorsed thereon, shall be deposited with the County Treasurer and kept in his office.'

"The only annotation we can find concerning the bond reads as follows:

> 'The premiums on the bond of deputies, assistants, bookkeepers, clerks and other employees, duly appointed or employed by county officers, which bonds are required to be given to the State by such officers by virtue of G. C. Sec. 2981, must be paid by the County Commissioners: 1932 A. G. Opns. No. 4880.'

"It is the intention of the insurance company to arrange the blanket bond so as to comply with the requirements of the Code i. e., each of the officers *who may desire the coverage, will* endorse his approval of the coverage, on the bond itself, including the amount therefor. If an officer desires additional coverage over that provided by the bond, excess coverage may be added to the bond for that department. The department of any officer who does not approve or desire the coverage will be excluded from the bond and no premium will be charged.

"Through the purchase of a single blanket bond, a county may save a considerable amount of premium if it were required to purchase individual blanket bonds for the various departments. This is because of an initial 'loading' which applies to each blanket bond. If the commissioners were required to purchase e. g. ten individual blanket bonds they would in effect have to pay the 'loading' charge for each bond. Through the purchase of the single blanket bond, there is only one 'loading'.

"As stated at the beginning of this letter, the blanket bond *does not* apply to officers or employees who are required by law to file a bond to qualify for office. They would continue to purchase their bonds on an individual basis.

"We respectfully request your opinion on the legality of purchasing a single blanket bond to cover the employees in those departments where the officers request the coverage as authorized under Section 2981 of the Ohio Code."

Section 2981, General Code, from which you have quoted a part, reads as follows:

"Such officers may appoint and employ necessary deputies, assistants, clerks, bookkeepers or other employes for their respective offices, fix their compensation, and discharge them, and shall file with the county auditor certificates of such action. Such compensation shall not exceed in the aggregate for each office the amount fixed by the commissioners for such office. When so fixed, the compensation of each duly appointed or employed deputy, assistant, bookkeeper, clerk and other employe shall be paid semi-monthly from the county treasurer, upon the warrant of the county auditor. Each of such officers may require such of his employes as he deems proper to give bond to the state in an amount to be fixed by such officer with sureties approved by him, conditioned for the faithful performance of their official duties. Such bond with the approval of such officer, indorsed thereon, shall be deposited with the county treasurer and kept in his office."

This section is a part of the chapter, Section 2977, et seq., General Code, dealing with salaries of county officers. The officers referred to in Section 2981 are those named in Section 2977, to wit, probate judge, auditor, treasurer, clerk of courts, sheriff, engineer and recorder. It is to be noted that such officers are authorized to appoint such deputies and other employes as they deem necessary, and to fix their compensation, such compensation being limited only by the aggregate of the amount fixed by the commissioners for each such office.

As to these powers, so far as they relate to the determination of the number of appointees, and their compensation, it has been held that the county commissioners have no control except in so far as they may limit the total amount of their appropriation for each such office. See Opinions of the Attorney General for 1926, page 253; 1927 id. page 2432.

That portion of Section 2981 which refers to the bonds which may be required of such employes is equally broad in giving to each of such officers the right to "require such of his employes as he deems proper to give bond to the State in an amount to be fixed by such officer and with sureties approved by him."

The manifest purpose of requiring such bonds to be given, and to be made in favor of the State as obligee, is to protect the public from loss which may occur from a failure on the part of any such employe to perform his duties in accordance with law or to account for moneys or property which may come into his possession or under his control.

There is nothing in the statute which makes it obligatory upon these officers to require a separate bond of each and every employe under his supervision. It would appear beyond argument that any such officer may accept and approve a bond which covers each and all of his own employes. I understand from your letter that is already an approved procedure in some counties.

Since that practice appears to be quite within the law, it is difficult to see any reason why a bond may not be so phrased as to cover the employes in several departments, provided the officer at the head of each department so joining agrees to that arrangement. Likewise, there would appear to be no serious difficulty in so wording such bond that each employe should be bonded in such amount as would be appropriate to the responsibilities which are placed upon him and the opportunities for defalcation.

As I have indicated, the purpose of these bonds is to protect the public from loss, and so long as the instrument is so drawn as to make it clearly actionable in case of default by any employe in any of the offices referred to, I am unable to see any respect in which it would fail to be a complete compliance with the law.

The statute requires that such bond must have the approval of the officer endorsed thereon, and in case a blanket bond is given as suggested by your inquiry, it is manifest that it should bear the approval of each such officer.

Section 9573-1, General Code, provides:

> "The premium of any duly licensed surety company on the bond of any public officer, deputy or employe shall be allowed and paid by the state, county, township, municipality or other subdivision or board of education of which such person giving such bond is such officer, deputy or employe."

Accordingly, in specific anwer to your question, it is my opinion that:

1. The provisions of Section 2981, General Code, relative to bonds

that may be required by the probate judge, auditor, treasurer, clerk of courts, sheriff, engineer and recorder of any county, securing the faithful performance of the official duties of employes of each of such offices, may be fully complied with by the execution of a single blanket bond covering such of the employes of each of such offices as each such officer may require, in such amount as he deems proper, and with sureties approved by him. If such bond is executed by a duly licensed surety company, the premium thereon must be paid by the county.

2. It is not requisite that all of said officers shall join in said plan, but any of them may elect to require separate bonds for their respective employes or blanket bonds limited to their respective departments.

Respectfully,

C. WILLIAM O'NEILL
Attorney General