

2075.

APPROVAL, BONDS OF ELYRIA CITY SCHOOL DISTRICT, LORAIN COUNTY, \$100,000.00, SCHOOL IMPROVEMENTS.

COLUMBUS, OHIO, December 13, 1924.

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

2076.

APPROVAL, BONDS OF TRUMBULL TOWNSHIP RURAL SCHOOL DISTRICT, ASHTABULA COUNTY, \$1,117.55, TO REFUND CERTAIN INDEBTEDNESS.

COLUMBUS, OHIO, December 13, 1924.

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

2077.

TAX LIMITATIONS—SECTIONS 5649-6a AND 5649-6b CONSTRUED—RATE OF TAXES THAT MAY BE LEVIED DURING LIFE OF BONDS.

SYLLABUS:

When the electors by a vote under Section 5649-6a authorize the exemption from all tax limitation of interest and sinking fund levies for bonds issued under such section, a rate may be levied during the life of such bonds sufficient to pay the interest and provide for a sinking fund irrespective of the rate set forth in the resolution providing for such submission.

COLUMBUS, OHIO, December 15, 1924.

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

Gentlemen:—

I am in receipt of your communication as follows:

"When under the provisions of Section 5649-6a, General Code, the levy for the payment of the bonded indebtedness of a school district issued prior to January 20, 1920, has been voted outside of the limitations of Sections

5649-2, 5649-3a and 5649-5b G. C., and in the resolution of the board submitting the question it is stated in compliance with Section 5649-6a G. C. that the rate of taxes that would be required to be levied in the next succeeding year is four mills, may a greater rate than four mills be levied in subsequent years if such greater levy is made necessary by a larger amount of bonds maturing in such years or by a decrease in the valuation of the tax duplicate?"

Section 5649-6a, General Code, provides:

"The commissioners of any county, the trustees of any township, the council or other legislative body of any municipal corporation, or the board of education of any school district having a bonded indebtedness on January 20, 1920, or having authority by a vote of the electors at any election held prior to said date, to issue such bonds, or having provided for the issuance of such bonds without a vote of the electors by ordinance or resolution adopted on or before said date, whether the effectiveness thereof was postponed until after said date by laws or charter provisions requiring publication or subjecting such ordinance or resolution to a referendum, or not, may, at any regular or primary election held in the year 1920 or in any year thereafter during the life of any such bonds submit to the electors of such county, township, municipal corporation, or school district, in the manner provided by Sections 5649-5 and 5649-5a of the General Code the proposition of exempting from the limitations of Sections 5649-2, 5649-3a and 5649-5b of the General Code all subsequent levies for interest and sinking fund purposes on account of such bonds. In the resolution providing for such submission, the rate of taxes that would be required for such purposes in the next succeeding year on the basis of the duplicate made up in the year in which the resolution is adopted shall be set forth, together with the number of years during which the exemption would apply. The form of ballots cast at such election shall be:

'For exempting interest and sinking fund levies on account of outstanding bonds from all tax limitations, "Yes".'

'For exempting interest and sinking fund levies on account of outstanding bonds from all tax limitations, "No".'

Section 5649-6b, General Code, provides:

"If a majority of the electors voting thereon at such election vote in favor thereof, it shall be lawful to levy taxes within such taxing district for such purposes during the remainder of the life of such bonds at such rate, annually, as may be necessary to pay the interest on such bonds and to provide a sinking fund for their retirement at maturity, irrespective of any of the limitations prescribed by the sections of the General Code mentioned in section 1 of this act."

It is clear from the above statutes that it was the intent of the legislature to authorize a board of education to submit the question of exempting from all tax limitations interest and sinking fund levies for all bonded indebtedness of a school district. The legislature prescribed the form of ballots to be used in such election and the form prescribed contains nothing relating to the number of mills to be levied.

It is true that Section 5649-6a provides that in the resolution providing for such submission the rate of taxes that will be required for such purpose in the next

succeeding year on the basis of the duplicate made up in the year such resolution was adopted shall be set forth, together with the number of years during which the exemption would apply.

Section 5649-6b authorizes the levy during the remainder of the life of said bonds at a rate necessary to pay interest and maturities when approved by the electors. The question submitted under section 5649-6a is regarding "exempting from all limitations all subsequent levies on account of such bonds". The limiting of the levy to the rate set forth in the resolution would not be a compliance with the question submitted, as the rate set forth in the resolution might not provide sufficient levy to pay interest and provide for a sinking fund.

It is therefore my opinion that the rate set forth in the resolution providing for the submission is not a limitation on the rate to be levied and that when the electors by a vote authorize the exemption from all limitations of interest and sinking fund levies, under Section 5649-6a, a rate may be levied during the life of such bonds sufficient to pay the interest and provide for a sinking fund.

Respectfully,

C. C. CRABBE,
Attorney General.

2078.

DISAPPROVAL, BONDS OF VILLAGE OF PERRY, LAKE COUNTY,
\$3,500.00.

COLUMBUS, OHIO, December 15, 1924.

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

Re: Bonds of Village of Perry, Lake County, \$3,500.00.

Gentlemen:—

I have examined the transcript submitted in connection with the foregoing issue of bonds and find that publication of notice of sale of these bonds was made in one newspaper beginning on September 13, 1924, and in the other on September 16th, 1924, and notice of sale was given on October 19, 1924.

Section 3924 G. C. provides in part as follows:

"Sales of bonds other than to the trustees of the sinking fund of the city or to the board of commissioners of the sinking fund of the city or to the board of commissioners of the sinking fund of the city school district as herein authorized, by any municipal corporation, shall be to the highest and best bidder, after publishing notice thereof for four consecutive weeks in two newspapers printed and of general circulation in the county where such municipal corporation is situated, * * *."

In view of the decision of the Supreme Court in the case of State vs. Kuhner and King, 107 O. S., page 406, the provisions of Section 3924 G. C. are construed as mandatory, and any failure in compliance, that is, failure to publish for four full