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APPROVAL, BONDS OF NORTH OLMSTED VILLAGE SCHOOL DIST., CUYAHOGA COUNTY, OHIO—\$15,350.00.

COLUMBUS, OHIO, January 24, 1933.

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

61.

APPROVAL, NOTES OF BROOKVILLE VILLAGE SCHOOL DISTRICT, MONTGOMERY COUNTY, OHIO—\$8,000.00.

COLUMBUS, OHIO, January 25, 1933.

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

62.

APPROVAL, NOTES OF AKRON CITY SCHOOL DISTRICT, SUMMIT COUNTY, OHIO, \$250,000.00.

COLUMBUS, OHIO, January 25, 1933.

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

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AUTOMOBILE—NECESSITY OF COUNTY COMMISSIONERS USING COUNTY CARS ON PUBLIC BUSINESS.

SYLLABUS:

1. *There is no statute providing means of transportation for boards of county commissioners other than section 2412-1, General Code.*

2. *Section 2412-1, General Code, does not authorize the substitution of a privately owned vehicle in lieu of the purchase of a public vehicle to be publicly owned and operated in the regular discharge of county business.*

3. *A county commissioner may operate his private automobile in the trans-*

action of public business, on gasoline and oil purchased with public funds only where the statute authorizes his expenses, as in section 1183-1, General Code.

COLUMBUS, OHIO, January 25, 1933.

HON. JOHN F. PORTER, *Prosecuting Attorney, Ironton, Ohio.*

DEAR SIR:—YOUR request submitted to this office reads as follows:

“Section 2412-1, General Code of Ohio, provides for the purchase of vehicles for the use of the County Commissioners or other officers when they deem such action necessary. The question before me is this:—The county commissioners do not have a car for themselves and for their meetings and inspection of the roads and it is necessary for them to use their own cars. They have asked me whether they could purchase gas and oil for their own private automobiles to go to and from their meetings and inspections of roads and have such items of expense charged to the county.”

It is evident that you are familiar with the provisions of the statute supplying authority to a board of county commissioners, when they deem it necessary, to purchase a motor vehicle after application to, and approval of, the common pleas court of their county. No further provision is made by statute whereby the substitution of a privately owned vehicle may be made in lieu of the purchase of a vehicle to be publicly owned and operated under the provisions of section 2412-1, General Code.

It appears to me from an examination of the facts as related by you that this question is presented: May a county commissioner legally operate his private automobile in the transaction of public business on gasoline and oil purchased by public money?

The following question was submitted to the Attorney General and may be found recorded in Vol. 1, page 373 of Opinions of the Attorney General for the year 1929:

Have the county commissioners authority to charge the county as expense, a sum equal to railroad fare charged by a county surveyor for transporting them to and from meetings attended by them in the legal discharge of their duties? In his opinion, my predecessor made the following observations:

“* * * The only limitation on such traveling expenses is that they must be actual and necessary. The statutes of Ohio do not expressly limit the method or means by which a commissioner may travel. * * * Whether or not the hiring of an automobile by a county commissioner for the use of his own conveyance would be proper, is a question which must be determined upon the particular facts.”

In this connection, let it be noted that the observations quoted were taken from an opinion based upon a definite number of stated facts pertaining to a particular and single transaction and that the opinion was given by way of construing section 1183-1 of the General Code. In the question at hand, I am confronted with a broader proposition.

Construing sections 2412-1, 2412-2 and 12880-1 of the General Code together, makes it appear to me that the plain legislative intent, in granting authority

to make the purchase of not only motor vehicles but also supplies for motor vehicles to be used in the transaction of public business, was to prevent fraud. You will note, for instance, that while the commissioners may purchase certain vehicles for officers other than themselves by a mere resolution, yet, when the vehicle is to be purchased for their own use, the approval of the common pleas court is required.

Section 2412-1 of the General Code provides for the purchase of supplies for such vehicle, which supplies would include gasoline and oil for operating the same.

There is no other statutory authority whereby county commissioners are given permission to make expenditures for transportation except on certain occasions. Section 1183-1 of the General Code provides that the Highway Director may call a commissioner or commissioners into a conference and that such county officers shall in addition to their salaries receive from their respective counties their actual and necessary expenses incurred in such attendance. Section 6502, General Code, provides for additional compensation for county commissioners for performing duties required of them with regard to the General Ditch Improvement Fund.

These and other statutes prescribing definite duties and compensation therefor lead me to the conclusion that a county commissioner is entitled to additional compensation for transportation only under certain circumstances and where statutory authority is clear.

This conclusion is reached in view of the fact that there is no statute providing means of transportation for boards of county commissioners other than section 2412-1 of the Code, and, furthermore, no compensation or expense allowance to county commissioners in addition to their regular salary is provided by the statute except in specific instances. The fact that specific allowance for expenses is made in certain instances would seem to negative the right to secure payment thereof with respect to other matters.

In *State ex rel. Hoel vs. Boubeau*, reported in 110 O. S. at page 287, it was said, in substance, that county offices being wholly creatures of the legislature, the determination of the powers and duties of the incumbents of these offices is likewise wholly a matter for the legislature. In other words, county officials have such powers and duties, and such only, as are expressly given them by statute, and as are naturally implied from the language of the statute. It is therefore my opinion that:

1. There is no statute providing means of transportation for boards of county commissioners other than section 2412-1, General Code.

2. Section 2412-1, General Code, does not authorize the substitution of a privately owned vehicle in lieu of the purchase of a public vehicle to be publicly owned and operated in the regular discharge of county business.

3. A county commissioner may operate his private automobile in the transaction of public business, on gasoline and oil purchased with public funds only where the statute authorizes his expenses, as in section 1183-1, General Code.

Respectfully,

JOHN W. BRICKER,
Attorney General.