

to the number of the instrument, the location of the land by township and county, and the name of the grantor, are as follows:

Number	Location	Name
675	Sharon Township, Franklin County, O.	Rowena G. Antrim
676	Wooster Township, Wayne County, O.	Jayne DeMuth

By the above grants there is conveyed to the State of Ohio, certain lands described therein, for the sole purpose of using said lands for public fishing grounds, and to that end to improve the waters or water courses passing through and over said lands.

Upon examination of the above instruments, I find that the same have been executed and acknowledged by the grantors in the manner provided by law and am accordingly approving the same as to legality and form, as is evidenced by my approval endorsed thereon, all of which are herewith returned.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

455.

COUNTY ENGINEER—AUTHORITY OF COUNTY COMMISSIONERS—RIGHT TO APPOINT MAINTENANCE SUPERVISOR—NO APPROVAL OF COUNTY COMMISSIONERS.

SYLLABUS:

Under the provisions of Section 2788-1, General Code, the county engineer, pursuant to the authorization of the board of county commissioners, has the exclusive right to appoint a maintenance supervisor or supervisors of his sole selection, and the appointment by the county engineer is not subject to the approval of the board of county commissioners.

COLUMBUS, OHIO, April 14, 1937.

HON. MARCUS SHOUP, *Prosecuting Attorney, Greene County, Xenia, Ohio.*

DEAR SIR: I have your communication of recent date, requesting my opinion as to the proper construction of Section 2788-1, General Code, with particular reference to the respective rights of the board of

county commissioners and the county engineer in the appointment of a maintenance supervisor or supervisors.

The language of Section 2788-1, General Code, pertinent to an opinion on the first part of your inquiry, is as follows:

“The county surveyor shall designate one of his deputies as county maintenance engineer. Such deputy so designated shall be a person experienced in the maintenance and repair of roads and it shall be the duty of such maintenance engineer, acting under the general direction and supervision of the county surveyor, to have charge of all road maintenance and repair work carried forward under the supervision of the county surveyor. * * *”

From the wording of the foregoing statute it is perfectly plain that there is no possible question as to the exclusive right of the county engineer to designate one of his deputies as county maintenance engineer, because Section 2788-1, General Code, expressly requires that in all cases a maintenance engineer be designated. This provision of the statute does not reserve to the county commissioners and the county engineer, as will be indicated further along in this opinion, any authority or discretion to establish the position of county maintenance engineer.

The provisions of Section 2788-1, General Code, pertinent to your principal question are as follows:

“The county surveyor, when authorized by the county commissioners, shall appoint a maintenance supervisor or supervisors to have charge of the maintenance of improved highways within a district or districts established by the commissioners and surveyor and containing not less than ten miles of improved county roads. Such maintenance supervisor shall act under the direction of the county surveyor, and the county surveyor, when authorized by the county commissioners, shall establish a patrol or gang system of maintenance under the direct charge of such supervisor. The compensation of such supervisor shall be fixed upon a per diem basis by the county commissioners and shall be paid out of the road repair or county road fund upon the approval of the county surveyor.”

The foregoing provisions of Section 2788-1, supra, simply mean that the power of the county commissioners is strictly limited to the creation of the position of maintenance supervisor. After the

county commissioners have exercised their authority in the creation of the position, it then lies within the sole authority of the county engineer to appoint an individual to serve in the position of maintenance supervisor. In other words, after establishing a road district, the engineer is authorized to fill the position with an individual of his sole selection.

The language of Section 2788-1, *supra*, is so plain and unambiguous as to preclude the necessity for any labored or involved construction. The foregoing explanation of the provisions of the statute under consideration is further borne out, I believe, by the requirement that such maintenance supervisor shall act under the direction of the county engineer, indicating that if such supervisor is to be, in a manner of speaking, a mechanical arm of the county engineer he should be personally acceptable to his superior.

In specific answer to your question it is therefore my opinion that the function of the county commissioners in the present instance is limited strictly to authorizing the county engineer to appoint a maintenance supervisor, and the selection of the individual by the county engineer is absolutely not dependent upon the approval of a majority of the county commissioners.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

456.

APPROVAL—BONDS OF AMES-BERN RURAL SCHOOL DISTRICT, ATHENS COUNTY, OHIO, \$5,000.

COLUMBUS, OHIO, April 14, 1937.

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

RE: Bonds of Ames-Bern Rural School Dist., Athens County, Ohio, \$5,000.00.

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise all of an issue of deficiency bonds dated April 1, 1937, bearing interest at the rate of 4% per annum.

From this examination, in the light of the law under authority of