

887.

APPROVAL, BOND FOR THE FAITHFUL PERFORMANCE OF HIS DUTIES AS RESIDENT DISTRICT DEPUTY DIRECTOR—H. L. HUBBELL.

COLUMBUS, OHIO, September 18, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a bond in the penal sum of \$5,000.00, upon which H. L. Hubbell appears as principal and the Detroit Fidelity & Surety Company appears as surety, to cover the performance of the duties of the said principal as resident district deputy director assigned to Portage County.

Heretofore said bond was returned without my approval, for the reason that the certificate showing the authority of the officers to execute the same had not been signed. However, this objection is now removed, and I am returning said bond with my approval noted thereon as to form.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

888.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND JOS. L. SKELDON ENGINEERING COMPANY, TOLEDO, OHIO, FOR THE CONSTRUCTION OF BOILERS AND STOKERS FOR MASSILLON STATE HOSPITAL, MASSILLON, OHIO, AT AN EXPENDITURE OF \$33,250.00—SURETY BOND EXECUTED BY THE UNITED STATES FIDELITY & GUARANTY COMPANY.

COLUMBUS, OHIO, September 18, 1929.

HON. H. H. GRISWOLD, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Welfare (Massillon State Hospital), and the Jos. L. Skeldon Engineering Company of Toledo, Ohio. This contract covers the construction and completion of two boilers and stokers, complete, for Massillon State Hospital, Massillon, Ohio, and calls for an expenditure of thirty-three thousand two hundred and fifty dollars (\$33,250.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also furnished evidence to the effect that the consent and approval of the Controlling Board to the expenditure has been obtained as required by Section 11 of House Bill 510 of the 88th General Assembly. In addition you have submitted a contract bond, upon which the United States Fidelity & Guaranty Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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889.

TOWNSHIP TRUSTEES—ROAD LEVY OUTSIDE FIFTEEN MILL LIMITATION UNAUTHORIZED.

*SYLLABUS:*

*There is no authority for township trustees to levy a tax for road purposes except within the fifteen mill limitation as provided in Section 5625-6, General Code.*

COLUMBUS, OHIO, September 18, 1929.

HON. C. LUTHER SWAIM, *Prosecuting Attorney, Wilmington, Ohio.*

DEAR SIR:—Your recent communication reads as follows:

“Clinton County for several years has had a two mill tax levy by vote of the people outside of all limitations for the maintenance and repairs of roads and highways. It is desired by several townships of this county to do away with the county levy and to vote for a township levy for the maintenance and repairs of roads and highways.

I have advised the several townships that under the provision of the General Code Section 5625-15, par. 7 that it is impossible for them to vote for a levy outside of the 15 mill limitation as a township issue, where the money is to be used for the maintenance and repairs of roads. I have further advised them that under Sections 5625-6, par. G, that they may have a levy without vote within the 15 mill limitation where the proceeds of the levy are to be used for the maintenance and repairs of roads and bridges.

I desire to reinforce my opinion to them by an opinion from your office.

Please advise if I am correct or not in stating that townships cannot vote for a road levy outside of the 15 mill limitation.”

In considering your inquiry we may start with the basic proposition as set forth in Section 5, Article XII of the Constitution to the effect that no tax shall be levied except in pursuance of law. It therefore follows that a township, or any other subdivision, may make only such levies as are expressly authorized by law.

The so-called budget law, as enacted in House Bill No. 80 of the 87th General Assembly, was an act which provided for the levying of taxes by local subdivisions, their method of procedure, etc. This act generally purports to outline the purposes for which levies may be made by the various subdivisions of the state, as well as the procedure for the same.

Section 5625-6, General Code, a part of said budget law to which you refer, specifies the levies that are authorized without vote of the people. Paragraph (g) provides:

“In the case of a township, for the construction, reconstruction, resur-