

tion with the motor vehicle license tax which is distributed to municipalities under the provisions of Section 6309-2, whereas you inquire both as to this tax and the gasoline tax. However, without further consideration it may be stated that the rule hereinbefore announced as applicable to the motor vehicle license tax would be equally applicable to the gasoline tax, for the reason that very similar uses of said funds by municipalities are authorized and any differences existing in reference thereto would not affect the question which you present.

Respectfully,
GILBERT BETTMAN,
Attorney General.

866.

DISAPPROVAL, BONDS OF FULTON COUNTY—\$50,900.00.

Re: Bonds of Fulton County, Ohio—\$50,900.00.

COLUMBUS, OHIO, September 13, 1929.

Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—The transcript relative to the above issue of bonds discloses that the above bonds are issued in anticipation of a county road improvement, proceedings having been started in May, 1928. These bonds, after having been offered to and rejected by the sinking fund trustees, were advertised pursuant to the provisions of Section 2293-28, General Code. This advertisement, as affixed to the affidavit in proof of publication thereof, states that the bonds bear interest at the rate of 6% per annum, but does not state that anyone desiring to do so may present a bid or bids for such bonds based upon a different rate of interest as is permitted under Section 2293-28, General Code. It appears that notwithstanding this fact a bid was received upon a different rate of interest and the bonds awarded to bear interest at the rate of 5½% per annum. This office has consistently held that unless the advertisement published pursuant to the provisions of Section 2293-28, General Code, prior to amendment by the 88th General Assembly, states that bids may be presented based upon bonds bearing a different rate of interest as therein provided, the acceptance of a bid at a different rate of interest is void. See Opinion No. 341 under date of April 23, 1929, directed to your commission and also Opinion No. 93 under date of February 14, 1929, also directed to your commission.

In view of the foregoing, I advise you not to purchase these bonds.

Respectfully,
GILBERT BETTMAN,
Attorney General.

867.

APPROVAL, CONTRACT FOR CHANNEL IN BED OF MIAMI RIVER IN CITY OF DAYTON, MONTGOMERY COUNTY, OHIO.

COLUMBUS, OHIO, September 13, 1929.

HON. RICHARD T. WISDA, Superintendent of Public Works, Columbus, Ohio.

DEAR SIR:—This is to acknowledge receipt of a recent communication from you which reads as follows:

"By the terms of House Bill No. 173, as passed by the 87th General Assembly of Ohio on the 4th day of April, 1927, the city of Dayton was required by the provisions of Section 3 of said act (G. C. 14177-2), to file a contract with the Superintendent of Public Works of the State of Ohio to the effect that if either the State of Ohio or the United States of America, or both, shall enter upon the construction of a ship or barge canal to connect Lake Erie with the Ohio River over a route upon and along the line of the Miami and Erie Canal through the city of Dayton, Ohio, by virtue of legislation enacted either by the General Assembly or the State of Ohio, or the Congress of the United States of America, or both, said city, in that event, is obligated to construct, at its own expense, a channel in the bed of the Miami River within the present corporate limits of said city of Dayton, of the same capacity as other sections of said canal connecting therewith.

WHEREAS, The said city of Dayton, by its city manager, F. O. Eichelberger, filed such contract with the Superintendent of Public Works, duly executed on behalf of said municipality as a preliminary to the purchase of a portion of the Mad River Feeder Canal within the corporate limits of said city, and a deed conveying said Mad River Feeder Canal lands to said city of Dayton, was executed by the Governor on the 13th day of August, 1929. In order to complete this contract, it is necessary that the Governor, the Attorney General, and the Superintendent of Public Works, execute the contract on behalf of the State of Ohio, and I am therefore submitting triplicate copies of this contract for approval by each of you, as required by the provisions of the act referred to above.

Kindly approve the contract at your convenience, and oblige."

I have carefully examined the contract submitted with your communication and therein referred to, and finding the fact to be that the abandoned Miami and Erie canal lands referred to in the act of April 4, 1927 (Secs. 14177-1, et seq. G. C.) have since been sold and conveyed by the State of Ohio to the city of Dayton, and that this contract complies in all respects with the provisions of said act, the same is hereby approved as is evidenced by my signature to said contract and to the duplicate and triplicate copies thereof.

Respectfully,
GILBERT BETTMAN,
Attorney General.

868.

DITCH IMPROVEMENT—MAY BE RUN THROUGH SECTION 16 SCHOOL LANDS BY COUNTY COMMISSIONERS—HOW ASSESSMENTS FOR BENEFITS PAID FOR.

SYLLABUS:

A county ditch improvement may be constructed in and upon Section 16, school lands, by the county commissioners of the county in which such lands are located, but assessments for benefits accruing to such lands by reason of the improvement can be paid for only in the manner provided for by Section 5330, General Code.

COLUMBUS, OHIO, September 14, 1929.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of the communication from you in which my opinion is asked upon a question therein stated as follows: