

4516.

APPROVAL, RENEWAL OF LEASE FOR RIGHT TO TAKE WATER
FROM THE LEVEL OF LAKE ST. MARYS—VILLAGE OF CELINA,
OHIO.

COLUMBUS, OHIO, July 22, 1932.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my examination and approval a renewal of a certain water pipe lease in triplicate, by which lease there is given to the Village of Celina, Ohio, Board of Public Affairs, the right, for a period of five years from the date specified in the lease, to take from the level of Lake St. Marys, such amount of water as will flow through a three inch pipe, the same to be used for steam boilers.

Upon examination of this lease, I find that the same has been properly executed by the Superintendent of Public Works, as Director of said department and by the Village of Celina, Ohio, Board of Public Affairs, the above named lessee. I further find that the provisions of said lease and the terms and conditions thereof, are in conformity with the provisions of Sections 14009 and 431 and other sections of the General Code relating to the execution of leases of this kind.

I am accordingly approving this lease as to legality and form and I hereby endorse my approval upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4517.

APPROVAL, NOTES OF KILLBUCK VILLAGE SCHOOL DISTRICT,
HOLMES COUNTY, OHIO, \$3,000.00.

COLUMBUS, OHIO, July 22, 1932.

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

4518.

FEES—MAY NOT BE CHANGED FOR FILING OF REPORT PROVIDED
BY SECTION 8625-7, G. C.

SYLLABUS:

There is no fee required for the filing of the report provided by Section 8625-7, General Code.

COLUMBUS, OHIO, July 23, 1932.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“Each foreign corporation for profit licensed to transact business in Ohio at the time of the effective date of the present foreign corpora-

tion act, August 6, 1931, and each foreign corporation thereafter licensed, is required by present Code sections 8625-7, et seq., to file with the Tax Commission for the benefit of the Secretary of State a report setting forth certain information as of the date of the annual accounting period of the corporation. Certain fees are prescribed in connection with computations based upon such reports by section 8625-9 as far as reports made by foreign corporations licensed since the effective date of the foreign corporation act may be concerned. See also fees prescribed by section 8625-11.

On the other hand, section 8625-10 having to do with such reports made by foreign corporations licensed at the time of the effective date of the foreign corporation act apparently prescribed no filing fee for the reports which such corporations are required to submit. In passing, it will be apparent from the reading of sections 8625-7, et seq., that even under General Code Sections 8625-9 and -11 no fee based on number of issued shares representing proportion may be determined by the computations above referred to.

General Code section 176, sub 2-7, provides for a filing fee of the sum of five dollars for filing any certificate or paper not required to be recorded in the office of the Secretary of State unless otherwise provided by law.

Your opinion is requested as to whether or not the filing fee of five dollars shall be charged and collected by the Secretary of State on all filings made under General Code sections 8625-7 to -11, inclusive, or whether such fee shall only be charged and collected in event of no fee being otherwise computed and found to be due on the filings called for by the sections in question, or whether on the other hand the filings required by General Code sections 8625-7, et seq., shall be admitted to filing by the Secretary of State without any fee other than such fees as may be determined from time to time by the computations provided for in the sections in question."

Section 8625-7, General Code, provides in part as follows:

"Each foreign corporation for profit heretofore or hereafter licensed to transact business in this state shall annually at the time prescribed by law for the filing of its annual franchise or excise tax report file with the tax commission for the benefit of the secretary of state a report, verified by the oath of its president, vice-president, secretary or treasurer, setting forth as of the date of the beginning of the current annual accounting period of the corporation:

* * * * *

There follows a tabulation of items of information required to be included in the report from which the Secretary of State may compute the number of issued shares of the corporation represented by property owned or used and business transacted in this state. The foregoing section closes with the following paragraph:

"Upon receipt of such report the tax commission shall forthwith transmit the same to the secretary of state."

Sections 8625-8 to 8625-11, both inclusive, relate to the computation and pay-

ment of qualification fees computed from the report required by Section 8625-7, supra, to be filed with the Tax Commission.

The reference in Section 8625-7, supra, to "annual franchise or excise tax report" filed with the Tax Commission is to the report required to be filed by Section 5495-2, General Code. This last mentioned section requires all corporations for profit, including foreign corporations doing business in this state or owning or using a part or all of their capital or property in this state or such as have been authorized by the Secretary of State to transact business in this state, to make a report to the Tax Commission between the first day of January and the thirty-first day of March of each year upon which is computed the annual franchise tax. There is no fee provided for the filing of this annual franchise tax report with the Tax Commission.

Section 176, General Code, to which you refer; provides in part as follows:

"Except as otherwise provided by law, the secretary of state shall charge and collect, for the benefit of the state, the following fees, to-wit:

* * * * *

7. Unless otherwise provided by law, for filing any certificate or paper not required to be recorded: the sum of five dollars.

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The provisions of the foregoing section for the payment of filing fees relate to articles of incorporation or certificates or papers which are required or permitted to be filed or recorded with the Secretary of State by the corporation or person filing such papers or documents. The annual report provided in Section 8625-7, supra, is not permitted or required to be filed with the Secretary of State by the corporation filing the same. The section requires corporations to file this report with the Tax Commission, which commission, in turn, shall transmit the report to the Secretary of State. There is no provision for the payment of a fee to the Tax Commission for filing this annual report with that commission, and Section 176 obviously places no burden upon the Tax Commission to pay fees to the Secretary of State.

It is, accordingly, my opinion that there is no fee required for the filing of the report provided by Section 8625-7, General Code.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4519.

JURY SERVICE—NAMES AND ADDRESSES OF PERSONS ELIGIBLE
MAY BE TYPEWRITTEN ON INDIVIDUAL BALLOTS FOR JURY
WHEEL.

SYLLABUS:

Under Section 11419-42, General Code, the name and address of each person on the jury list who is qualified and liable for jury duty, may be typewritten separately on an individual ballot for the purpose of selection from the jury wheel.

COLUMBUS, OHIO, July 25, 1932.

HON. HOWARD GOLDSBERRY, *Prosecuting Attorney, Chillicothe, Ohio.*

DEAR SIR:—Your recent request for my opinion reads: