

under the circumstances you present should be paid out of the general health district fund as are other expenses of the board, in accordance with Section 1261-38, General Code.

In specific answer to your questions, therefore, it is my opinion that:

1. In the event of litigation between a district board of health of a general health district and a board of county commissioners of the county constituting all or a major part of such district, and the prosecuting attorney of such county elects to represent the board of county commissioners, such district board of health has implied power to employ legal counsel for such litigation.

2. Such counsel may be paid from any unappropriated funds in the general health district fund as are other expenses of the district board of health, in accordance with the provisions of Section 1261-38, General Code.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3838.

APPROVAL, BONDS OF ROSS COUNTY, OHIO—\$20,000.00.

COLUMBUS, OHIO, December 10, 1931.

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

3839.

APPROVAL, LEASE FOR RIGHT TO TAKE WATER FROM OHIO CANAL SOUTH OF THE CITY OF CLEVELAND, OHIO, FOR PURPOSE OF OPERATING MILLS AND PLANT OF COMPANY—THE AMERICAN STEEL AND WIRE COMPANY.

COLUMBUS, OHIO, December 10, 1931.

HON. A. T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your communication to me under date of December 5, 1931, in which you submit for my examination and approval a certain lease in triplicate executed by you as superintendent of public works and as director of said department, by which there is leased and demised to The American Steel and Wire Company, a corporation, a portion of the northern division of the Ohio Canal between Station 777 and Station 72+85.6 of G. F. Silliman's survey of the Ohio Canal south of the city of Cleveland, Ohio, together with the right of The American Steel and Wire Company to take from the portion of the canal so leased, such amount of surplus water therein as may be needed by said company for power and other purposes in the operation of the mills and plant of the company which are located on lands contiguous to the canal.

The lease of the canal lands between the points above designated is for a term of fifteen years, commencing on the first day of May, 1932, with an option

to the company to renew said lease for an additional period of ten years, or for such other period of time as may be permitted by law. The lease to the company of the right to take from said canal surplus water that may be needed by the company for power and other purposes in the operation of its mills, is for the stated term of twenty-five years from the first day of May, 1932.

By the provisions of the lease here under consideration the company is to pay the state of Ohio an annual rental of ten thousand five hundred dollars, payable in semi-annual installments of five thousand two hundred and fifty dollars each, in advance, on the first days of May and November of each and every year during the continuance of the lease. Of said annual rental of ten thousand five hundred dollars, three thousand dollars thereof is for the canal land, this amount being six per cent of the sum of fifty thousand dollars, which is the appraised value of said canal lands as found by the superintendent of public works and stated in the lease; and the balance of the amount of the aggregate annual rental above stated is for the use of the water to be taken by the company from the canal.

A similar lease to The American Steel and Wire Company covering this same section of the Ohio Canal and granting to the company the right to take therefrom water for a term of twenty-five years was considered and approved by me as to legality and form by Opinion No. 1511, addressed to you under date of February 10, 1930. This lease, for some reason, was not approved by the then Governor of the state. Aside from the fact that the lease here under consideration provides for an increase of five hundred dollars in the aggregate annual rental to be paid the state over that provided for in the former lease above referred to, and the fact that this lease is to operate from the first day of May, 1932, instead of from the first day of May, 1930, as in said former lease provided, this lease is quite identical in all of its provisions with the lease considered and approved by me in Opinion No. 1511, above referred to.

In view of the fact that the legal questions involved in the consideration of this lease are fully discussed in said former opinion, I do not deem it necessary to set out in this opinion the reasons which in point of law led me to an approval of the other lease, and which are applicable to the lease now before me.

It appearing, therefore, that this lease has been executed by you in the manner provided by law and that the same has been likewise executed by The American Steel and Wire Company through and by its president and secretary in the manner provided by law and a resolution of the board of directors of said company, this lease is approved by me as to legality and form for the reasons further stated in my former opinion above referred to. I am herewith returning to you this lease and the duplicate and triplicate copies thereof with my approval endorsed thereon.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3840.

APPROVAL, BOND FOR THE FAITHFUL PERFORMANCE OF HIS
DUTIES AS RESIDENT DIVISION DEPUTY DIRECTOR—H. D.
SCHOONOVER.

COLUMBUS, OHIO, December 10, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*