

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 compenstion 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,

JOHN W. BRICKER,
Attorney General.

5903.

APPROVAL—CONTRACT FOR PLUMBING FOR PROJECT KNOWN AS ADDITION TO HOSPITAL AND REMODELING OF WOMEN'S WARDS, ATHENS STATE HOSPITAL, ATHENS, OHIO, \$9,975.00, GLOBE INDEMNITY COMPANY, SURETY—EASTERN PLUMBING COMPANY, COLUMBUS, OHIO, CONTRACTOR.

COLUMBUS, OHIO, July 25, 1936.

HON. CARL G. WAHL, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works for the Department of Public Welfare, and the Eastern Plumbing Company of Columbus, Ohio.

This contract covers the construction and completion of Contract for Plumbing for a project known as Addition to Hospital and Remodeling of Women's Wards, Athens State Hospital, Athens, Ohio, in accordance with Item No. 2 and Item No. 6 (Alt. P-1) of the form of proposal dated July 1, 1936. Said contract calls for an expenditure of nine thousand and seventy-five dollars (\$9,075.00).

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 Controlling Board has approved the expenditure as required by Section 1 of House Bill No. 504 of the regular session of the 91st General Assembly. In addition, you have submitted a contract bond, upon which the Globe Indemnity 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,

JOHN W. BRICKER,
Attorney General.

5904.

WORKMEN'S COMPENSATION—MEMBERS OF PARTNERSHIP OR FIRM NOT CONSIDERED AS EMPLOYEES, IN DETERMINING AMENABILITY TO COMPENSATION LAW—CONSTITUTIONAL LAW.

SYLLABUS:

The amendment to Section 1465-60, General Code, which provides that members of a partnership, firm or association shall be considered as employees in determining whether or not such partnership, firm or association employed three or more workmen or employees, and which provides for compensation for such members of the partnership, firm or association is, by virtue of the decision of the Supreme Court in the case of Goldberg, Appellee, v. Industrial Commission, Appellant, 131 O. S., 399, unconstitutional and in violation of the provisions of Section 35 of Article II of the Constitution of Ohio.

COLUMBUS, OHIO, July 28, 1936.

The Industrial Commission of Ohio, Columbus, Ohio.

DEAR SIR: This will acknowledge your recent request for my opinion which reads as follows:

"On July 8th you advised that the Supreme Court had reversed the action of the lower courts and rendered final judgment in favor of the Industrial Commission in Goldberg v. Industrial Commission on the grounds that the last paragraph of Section 1465-66 (111 Ohio Laws, 218) is unconstitutional.

"The question naturally arises as to the constitutionality of the provisions of Section 1465-60 as amended, 116 Ohio Laws, 56, pertaining to members of partnerships, firms or associations. The Commission, therefore, requests your opinion as to the constitutionality of the above mentioned section."