

5464.

APPROVAL—BONDS OF CITY OF TOLEDO, LUCAS COUNTY, OHIO, \$35,000.00.

COLUMBUS, OHIO, May 4, 1936.

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

5465.

APPROVAL—CONTRACT FOR ELECTRICAL WORK FOR PROJECT KNOWN AS COUNTY HIGHWAY GARAGE, OAK HARBOR, OHIO, \$450.00, HARTFORD ACCIDENT AND INDEMNITY COMPANY OF HARTFORD, CONN., SURETY—STEIBLE-WOLFE CONSTRUCTION COMPANY OF FREMONT, OHIO, CONTRACTOR.

COLUMBUS, OHIO, May 5, 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 Highways, and the Steible-Wolfe Construction Company of Fremont, Ohio. This contract covers the construction and completion of Contract for Electrical Work for a project known as County Highway Garage, Oak Harbor, Ohio, in accordance with Item No. 4 of the form of proposal dated March 16, 1936. Said contract calls for an expenditure of four hundred and fifty dollars (\$450.00).

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 submitted certificates of the Controlling Board showing that such board has released funds for this project, in accordance with section 8 of House Bill No. 531 of the regular session of the 91st General Assembly.

In addition, you have submitted a contract bond upon which the Hartford Accident and Indemnity Company of Hartford, Connecticut, 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 ap-

pears 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.*

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5466.

USE TAX—SALE OF AUTOMOBILE IN FOREIGN STATE TO AVOID SUCH TAX—WHERE MADE TO THIRD PERSON WHO TRANSFERS TO RESIDENT OF OHIO TAX APPLIES.

**SYLLABUS:**

*Where "A", an automobile dealer in Indiana, sells or agrees to sell in that state an automobile to "B", a resident of Ohio, and "A" thereafter, for the purpose of enabling "B" to evade the payment of the Use Tax provided for by section 5546-26, General Code, executes a bill of sale of the automobile to "C", a resident of the state of Indiana not engaged in the business of selling automobiles, under an agreement or understanding with "C" that he shall execute a bill of sale of the automobile to "B", which is accordingly done, and where "B" then brings the automobile from Indiana into Ohio and presents a sworn statement of ownership to the clerk of courts of the county in which he resides, held:*

1. *The use of the automobile in Ohio by "B" is subject to the tax provided for in section 5546-26 of the General Code.*

2. *If said tax is not paid by the seller and "B" does not file with the Tax Commission the return provided for in section 5546-29, General Code, "B" would be subject to the assessment and penalty provided for in section 5546-37, General Code.*

3. *While "C" would not be a bona fide owner of the automobile, "B" could not be prosecuted for filing a sworn statement of ownership naming "C" as the bona fide owner.*

4. *If "B" fails to file with the Tax Commission, the return provided for in section 5546-29, General Code, criminal proceedings could be instituted against him under the provisions of section 5546-43, General Code.*