

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 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.

5875.

BONDS—HOUSE BILL NO. 544—MAY BE ISSUED BY POLITICAL SUBDIVISION TO SHARE IN COST OF PROJECTS RECEIVING FEDERAL AID UNDER FIRST DEFICIENCY APPROPRIATION ACT.

SYLLABUS:

Political subdivisions of the state are authorized to issue bonds under the provisions of House Bill No. 544 of the 91st General Assembly for their share of the cost of construction of projects on which federal aid is being received under the provisions of Title II of the First Deficiency Appropriation Act, Fiscal Year 1936, passed by the 74th Congress.

COLUMBUS, OHIO, July 21, 1936.

HON. E. L. BOWSHER, *Director of Education, Columbus, Ohio.*

DEAR SIR: I acknowledge receipt of your communication in which you ask my opinion as to whether a school district may take advantage of the provisions of House Bill No. 544 of the 91st General Assembly and issue bonds thereunder for the construction of a project on which the district is getting federal aid under the provisions of Title II of the First Deficiency Appropriation Act, Fiscal Year 1936, passed by the 74th Congress.

Section 1 of said House Bill No. 544 reads in part as follows:

“For the purpose of enabling municipal corporations and other subdivisions of Ohio to participate in federal aid provided by the ‘national industrial recovery act’ and/or by the ‘federal emergency relief act’ enacted by the seventy-third congress of the United States, and/or the emergency relief appropriation act of 1935, passed by the 74th congress of the United States, and any act amendatory thereto, or supplementary thereto, or extending

the effective period thereof, or reenacting the same, and for such purposes only, the taxing authority of any municipal corporation or any other subdivision provided for in said acts is hereby authorized to issue bonds, during the effective period of said acts, and any act amendatory thereto, or supplementary thereto, or extending the effective period thereof, or reenacting the same, subject to the provisions of Sections 2293-1 to 2293-37 inclusive, of the General Code, except as hereinafter provided, and such bonds may be non-interest bearing for any number of consecutive years, beginning with the date of issue."

Title II of said Deficiency Appropriation Act reads as follows:

"In order to increase employment by providing for useful public-works projects of the kind and character for which the Federal Emergency Administrator of Public Works (hereinafter called the Administrator) has heretofore made loans or grants pursuant to Title II of the National Industrial Recovery Act or the Emergency Relief Appropriation Act of 1935, the Administrator may, upon the direction of the President, use not to exceed \$300,000,000 from funds on hand or to be received from the sale of securities, for the making of grants to aid in financing of such projects; *Provided*, That no part of the sum made available by this paragraph shall be granted for any project unless, in the determination of the administrator, the completion thereof can be substantially accomplished prior to July 1, 1938, and adequate provision has been made or is assured for financing such part of the entire cost thereof as is not to be supplied through the Federal Emergency Administration of Public Works; *Provided further*, That this limitation upon time shall not apply to any project enjoined in any Federal or state court; *Provided further*, That in no case shall the amount of the grant exceed 45 per cent of the cost of the project. Nothing herein shall be construed to increase the amount of notes, bonds, debentures, and other such obligations which the Reconstruction Finance Corporation is authorized and empowered under existing law to issue and to have outstanding at any one time, and nothing herein shall be construed to limit or curtail in any way any powers which the Federal Emergency Administration of Public Works or the Administrator is now authorized to exercise."

Said House Bill No. 544 refers not only to amendments to the acts of Congress therein specified but also includes acts that may be supple-

mentary thereto or that may extend the effective period thereof or that may reenact the same. Title II of said Deficiency Appropriation Act is not an amendment to any of said acts of Congress, neither does it reenact any of them and perhaps could not be construed to extend the effective period of any said acts. The question, therefore, is whether said Title II is supplementary to any of said acts.

An amendment is somewhat different than a supplemental or a supplementary act. Supplemental or supplementary means "Something added to supply what is wanted; something additional." 60 O. J., 1166.

As stated in the case of *McCleary v. Babcock*, 169 Ind., 228, a supplemental act "signifies something additional, something added to supply what is wanting," and is different from an amendment since "to amend a statute is to alter it; to annul or remove that which is faulty, and substitute that which will improve it."

The following is a part of a statement which was submitted by the Chairman of the House Committee on Appropriations and read into the record by the clerk (Congressional Record, June 17, 1936, House of Representatives, page 9889) for the purpose of declaring the intention of Congress in enacting said Title II:

"The bill as it passed the House of Representatives contained no provision concerning the Public Works Administration. The Senate added a paragraph which authorized the Federal Emergency Administrator of Public Works, upon the direction of the President, to use not to exceed \$300,000,000 from funds on hand, or to be received from the sale of securities, for the making of grants to aid in the financing of projects capable of being substantially completed, in the determination of the Administrator, not later than June 30, 1938. The amount of grant which could be made for any project was limited to 45 per cent.

The purpose of this provision is to permit the Federal Emergency Administrator of Public Works to use the cash and credits now in the Public Works Administration revolving fund for an additional public-works program to *supplement* the work-relief program to be carried on. Since, under existing law, the moneys in the Public Works Administration revolving fund are available only for loans, for the past year the Public Works Administration has been making loans from this revolving fund and grants from rescinded allotments made from the appropriations to carry out Title II of the National Industrial Recovery Act and from the \$345,000,000 allocated to the Public Works Administration by the President from the \$4,880,000,000 appropriated to carry out the Emergency Relief Appropriation Act of 1935.

The provision added by the Senate is not intended to disturb the use of the revolving fund for such loans as are authorized under Public, No. 412, Seventy-third Congress, and under the Emergency Relief Appropriation Act of 1935, but it confers supplemental and additional powers upon the Administrator and does not curtail any of his present powers or functions.

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To summarize: Under the Senate amendment as modified by the conferees, the President is given power to authorize and direct the Federal Emergency Administrator of Public Works to use \$300,000,000 from the revolving fund for the making of grants for projects selected by the Administrator, and to use funds on hand and funds to be received from the resale of bonds for the making of loans for such projects. It is anticipated that the Administrator will be empowered to make these grants and loans subject to such terms and conditions as he may prescribe in order to carry out the purposes of the Senate amendment. The Administrator will, of course, continue to exercise the functions which he has been heretofore authorized to perform under Title II of the National Industrial Recovery Act and under the Emergency Relief Appropriation Act of 1935."

It is seen that said Title II simply authorizes an additional \$300,000,000 to be used for the same purposes as are set forth in the National Industrial Recovery Act and in the Emergency Relief Appropriation Act of 1935 and to be expended under the same administration as is provided in said acts, provided that the projects getting federal aid are to be substantially completed prior to July 1, 1938. It supplements the amount of money that is available under said acts and provides the period during which it may be used. I am of the view that this provision is supplementary to the National Industrial Recovery Act and the Emergency Relief Appropriation Act of 1935.

Answering your question, I am of the opinion therefore that political subdivisions of the state are authorized to issue bonds under the provisions of House Bill No. 544 of the 91st General Assembly for their share of the cost of construction of projects on which federal aid is being received under the provisions of Title II of the First Deficiency Appropriation Act, Fiscal Year 1936, passed by the 74th Congress.

Respectfully,

JOHN W. BRICKER,
Attorney General.