

2103.

APPROVAL, CONTRACTS FOR ROAD IMPROVEMENTS IN HAMILTON AND WARREN COUNTIES AND FINAL RESOLUTION FOR IMPROVEMENT IN CUYAHOGA COUNTY.

COLUMBUS, OHIO, July 17, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

2104.

BOARD OF EDUCATION—AUTHORITY TO LEASE SCHOOL BUS WITH PRIVILEGE OF PURCHASE AT TERMINATION OF LEASE.

SYLLABUS:

A board of education may legally lease a school bus for a two or three year period if in its judgment such action is for the best interest of the schools under its control. Such a contract of lease may contain a provision granting the board the option to purchase at expiration of lease. However, such a lease must provide for the payment of a rental commensurate with the use of such bus, and such a contract may not be in fact a contract of purchase under the guise of a lease.

COLUMBUS, OHIO, July 18, 1930.

HON. G. H. BIRRELL, *Prosecuting Attorney, Warren, Ohio.*

DEAR SIR:—You have presented the following inquiry:

“Several township boards of education of Trumbull County desire to purchase school busses and operate them rather than to let contracts for the transportation of the school children to private individuals. They, however, have not sufficient funds in their school budget to purchase the busses outright and do not wish to ask a bond issue for this purpose. If they were permitted to contract for the purchase of school busses with payments extending over a period of two or three years, the busses could be purchased out of the money which would otherwise be used to pay private individuals for such transportation, and some saving in addition to the acquisition of the bus be accomplished at the same time. In view of your recent opinion that contracts for transportation of pupils may extend over periods of two or more years, it has been suggested that such a purchase might be made by leasing the school bus for from two to three years with privileges of purchase at the expiration of such time at a nominal price. Under such a plan title would remain in the lessor until all payments were made, but exclusive use and control would be in the school board. Certificate of the fiscal officer could of course be made only for funds for current year payments on such lease.

Will you kindly advise me whether a board of education may lawfully lease a school bus for transportation of pupils for a period of two or three years with privilege of purchase at the expiration of such time?”

In response to your request, you were referred to Opinions of the Attorney