

545.

APPROVAL, NOTES OF SCHOOL DISTRICTS IN BROWN AND SCIOTO COUNTIES.

COLUMBUS, OHIO, May 27, 1927.

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

546.

APPROVAL, DRAFTS OF FORMS FOR USE UNDER THE GENERAL CORPORATION ACT.

SYLLABUS:

Approval, drafts of forms for use under the General Corporation Act.

COLUMBUS, OHIO, May 28, 1927.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—This acknowledges receipt of your recent letter which reads as follows:

"The General Corporation Act, which under your ruling becomes effective June 8, 1927, seems to necessitate certain changes in the forms furnished by the Secretary of State for use in the State Corporation Department.

I have, therefore, prepared a number of the principal forms used in this Department following generally the outline of forms heretofore furnished but with such changes in the language as seems required by the General Corporation Act and herewith submit such forms for your approval.

Inasmuch as the General Corporation Act will become effective June 8th and some little time required for printing, your early consideration of this matter will be appreciated."

I have carefully examined your drafts of forms for use under the General Corporation Act and am herewith returning same to you with my approval subject to the following suggestions and corrections:

1. Form: A No change.
2. Form: A1 No change.
3. Form: A2 To the note referred to in the fourth article of this form add: "See Par. 4, Sec. 8623-4, G. C."
4. Form: A8 To the note referred to in the fourth article of this form add: "See Par. 4, Sec. 8323-4, G. C." Change sub-paragraph (c) of the sixth paragraph to read: "The valuation at which such property is to be received is ----- dollars." In the first line of the seventh paragraph change the word "adopted" to "agreed to." It seems to me the printing of Section 8623-7, General Code, in connection with this form is unnecessary.

5. Form: B In the upper right hand corner of this form change the phrase "in form" to the word "regular."
6. Form: B1 In the upper right hand corner of this form change the phrase "out of form" to "with optional provisions." In the note referred to in the seventh paragraph write the citation as follows: "Par. 7, Sec. 8623-98, G. C."
7. Form: CERTIFICATE OF AMENDMENT FOR PROFIT—
In the first paragraph of this form after each of the two parentheses place an asterisk and then in a note at the bottom of the page say: "*See Sec. 8623-15 G. C." In the seventh line of the same paragraph change the word "were" to "was."
8. Form: CERTIFICATE OF AMENDMENT NOT FOR PROFIT—
In the sixth line of the first paragraph of this form change the word "were" to "was." In the seventh line of the same paragraph strike out the words "a majority." After the parenthesis following these words place an asterisk followed by a blank space. Place a note at the bottom of the page marked with an asterisk and say therein: "Here insert 'a majority' or such a vote as is provided by the articles or regulations. See Sec. 8623-113, G. C."
9. Form: CERTIFICATE OF SALE OR ISSUANCE OF SHARES FOR LESS THAN PAR—
In the title of this form after the word "shares" insert the phrase "with par value." In the ninth line of the second paragraph of this form place a period after the word "issued" and then begin a new paragraph with the phrase: "It is further certified that, etc."
10. Form: CERTIFICATE WHERE SHARES ARE ISSUED AS A SHARE DIVIDEND—
Make the following change at the beginning of this form: "-----, an Ohio corporation, does hereby certify that on the ----- day of -----, 19____, it issued certain of its shares as a share dividend and that:" In sub-paragraph (c) leave out the word "then" and change the word "were" to "are."
11. Form: CERTIFICATE WHERE SHARES ARE ISSUED FOR CONSIDERATION OTHER THAN CASH—
Make the following change at the beginning of this form: "-----, an Ohio corporation, does hereby certify that on the ----- day of ----- 19____, it issued certain of its shares in whole or in part for considerations other than cash and that:" In sub-paragraph (b) strike out the words "consisted of and." In sub-paragraph (c) strike out the word "then" and change the word "were" to "are."

12. Form: CERTIFICATE OF REDUCTION OF STATED CAPITAL BY REDEMPTION AND CANCELLATION OF SHARES—At the beginning of this form in the third line take out the words “desires to reduce” and insert in their place the words “has authorized the reduction of.” At the beginning of the tenth line change the words “Such reduction is effected by redeeming” to “the corporation has redeemed.”
13. Form: CERTIFICATE OF REDUCTION OF STATED CAPITAL OTHERWISE THAN BY REDEMPTION—Make the same correction as in the above form with reference to the words “desires to reduce.” In the ninth line take out the words “Such reduction is to be effected by” and insert the following: “The corporation has *-----” Place a note at the bottom of the page marked with an asterisk and say therein: “State method of reduction used. See Sec. 8623-39, G. C.” In the tenth line strike out the words “and correct” and in the eleventh and twelfth lines strike out the phrases “to-wit.”
14. Form: CERTIFICATE OF DISSOLUTION BY INCORPORATORS—No change.
15. Form: CERTIFICATE OF DISSOLUTION BY DIRECTORS—No change.
16. Form: CERTIFICATE OF DISSOLUTION BY UNANIMOUS CONSENT OF ALL SHAREHOLDERS—No change.
17. Form: CERTIFICATE OF DISSOLUTION BY RESOLUTION OF SHAREHOLDERS—In the sixth line of the fourth paragraph of this form after the word “exercise” place an asterisk and then in a note at the bottom of the page say: “Here state requisite proportion which is two-thirds unless articles otherwise provide.”
18. Form: AMENDMENT REMOVING RESTRICTIONS UPON CORPORATIONS HERETOFORE FORMED PURSUANT TO PROVISIONS OF SEC. 10210 G. C.—In the seventh line of this form strike out the words “and correct.”
19. Form: AMENDMENT TO PROVIDE FOR PERPETUAL SUCCESSION OF REAL ESTATE CORPORATIONS—In the sixth line of this form strike out the words “and correct.”

I note that all of the forms conclude with the expression: “In witness whereof, we have hereunto set our hands.” While this form is still used, it is somewhat archaic and I am suggesting that it be changed to the expression: “In witness whereof, we have hereunto subscribed our names.”

You will note that I am not giving any reasons for the suggestions and corrections. In the interest of brevity I am omitting these reasons. Several of these suggestions

were offered and all of them were concurred in by representatives from your department. If necessary they can give you the reasons for the suggested changes.

Respectfully,

EDWARD C. TURNER,
Attorney General.

547.

APPLICATION OF OPINION NUMBER 3445, OPINIONS OF ATTORNEY GENERAL, JUNE 10, 1926, TO CERTAIN FACTS DISCUSSED.

SYLLABUS:

Application of opinion No. 3445, Opinions, Attorney General, June 10, 1926, to certain facts discussed.

COLUMBUS, OHIO, May 28, 1927.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication as follows:

“I respectfully request the applicability of the principles of law discussed in the Opinion of the Attorney General No. 3445 to the following specific state of facts, disclosed by a recent audit of the Automobile Division of the Secretary of State's office, as set forth in the account of said division, and this condition obtained in over 200 banks with some variations as to deposits and withdrawals. The accompanying sheets is a transcript of the books relating to the deposits and withdrawals in the Union Trust Company, Cincinnati.

Under these admitted facts would there be any interest due to the State, and from whom?”

The sheets accompanying your communication show a complete statement of the account of one of the deputy registrars of the automobile division of the Secretary of State's office with the Union Trust Company of Cincinnati, as shown by the records of the office of the Secretary of State.

Information which you have furnished me supplementary to your communication shows that the funds making up this account were the moneys received by the deputy registrar in the city of Cincinnati from the sale of motor vehicle licenses which were deposited by him in the Union Trust Company to the credit of Thad H. Brown, Secretary of State, and subject to the order of the Secretary of State.

The initial deposit to the credit of this account was made on December 1, 1923, in the sum of \$4,048.00. Additional deposits were made during the said month on the 4th, 5th, 6th, 7th, 8th, 11th, 15th, 18th, 20th, 22nd, 24th, 28th, 29th and 31st, totaling for the month the sum of \$157,333.51. Deposits were made at various times during each month until August 3, 1925, when the account was closed by the withdrawal of the balance amounting to \$4,812.10. The average aggregate monthly deposits during this period were \$70,813.47. The aggregate deposits during the months of December, January and February of each year were much greater than those for any other months of the period. Deposits made during the summer and early fall months were small as compared with those for other months.

The account shows that on December 28, 1923, the total deposits up to that time had amounted to \$80,294.10, that no withdrawals were made from said account until January 26, 1924, when there was withdrawn and transferred to the state treasury