

146.

DIRECTOR OF HIGHWAYS—HAS NO STATUTORY AUTHORITY TO EXPEND FUNDS FOR LIGHTING BRIDGES LOCATED ON INTER-COUNTY HIGHWAY OR MAIN MARKET ROAD.

SYLLABUS:

*There being no statutory authority therefor, the Director of Highways and Public Works is not authorized to expend funds, appropriated to the Department of Highways and Public Works, for the purpose of lighting bridges located on an inter-county highway or main market road.*

COLUMBUS, OHIO, March 4, 1927.

HON. GEORGE F. SCHLESINGER, *Director of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your recent communication in which you state:

“As I understand it the law does not authorize us to spend money for lighting on highways. However, I believe this particular case is very meritorious, and is in a class by itself. The Grant Memorial Association contributed \$10,000.00 towards the erection of this bridge, and I believe the State is justified in paying the cost of maintaining the lights in this bridge, not only as an appreciation of the above donation, but as a matter of safety to the traveling public.”

and to which is attached an agreement providing for the payment by the department of highways and public works of the sum of \$210.00 per year in consideration of an electric power company furnishing power for the purpose of lighting the bridge named in your letter.

As heretofore pointed out by this department, the director of highways and public works can only expend funds of the department for such purposes as are expressly authorized by law.

Section 154-3 of the General Code creates the department of highways and public works, and provides:

“The director of each department shall, subject to the provisions of this chapter, exercise the powers and duties vested by law in such department.”

Section 1178 of the General Code provides:

“The department of highways and public works shall be for the purpose of constructing, improving, maintaining and repairing a state system of highways, co-operating with the federal government in the construction, improvement, maintenance and repair of post roads or other roads designated by the federal authorities, and affording instruction, assistance and co-operation to the counties, townships and other subdivisions of the state in the construction, improvement, maintenance and repair of the public roads and bridges of the state, under the provisions of this chapter.”

There is no statutory provision giving the director of highways and public works authority to expend funds of the department of highways in furnishing lights upon bridges located on inter-county highways or main market roads.

The purpose for which the lights are to be furnished in this instance and as contemplated in the agreement may be most worthy, but before the expenditure can be made there must be statutory authority therefor. If the department could expend money for the furnishing of lights upon the bridge in question, it likewise could furnish lights upon every bridge and culvert located on every inter-county highway and main market road in the state.

The word "maintenance" as used in the above section refers to the physical upkeep of roads when once constructed, and not to the furnishing of light upon roads or bridges for safety purposes.

There being no authority in the present law permitting the director of highways and public works to expend money for the purpose of furnishing lights upon bridges, I am of the opinion that you may not lawfully enter into the contract submitted for my consideration and approval.

I am herewith returning the contract submitted.

Respectfully,  
EDWARD C. TURNER.  
*Attorney General.*

147.

APPROVAL, BONDS OF VILLAGE OF BEACHWOOD, CUYAHOGA COUNTY, OHIO—\$98,700.00.

COLUMBUS, OHIO, March 4, 1927.

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

148.

APPROVAL, BONDS OF VILLAGE OF SILVER LAKE, SUMMIT COUNTY, OHIO—\$8,164.27.

COLUMBUS, OHIO, March 4, 1927.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*