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BRIDGES, ACQUISITION — REVENUE BONDS — §5593. RC — COSTS OF IMPROVEMENTS TO EXISTING STRUCTURE NECESSARY FOR OPERATIONS MAY BE INCLUDED IN COST OF ACQUISITION.

SYLLABUS:

The State Bridge Commission is authorized under the provisions of Chapter 5593., Revised Code, to issue revenue bonds and to expend the proceeds thereof in the acquisition of an existing bridge and to defray the cost of such improvements thereto as may be reasonably necessary to make such structure suitable for operation by the commission as a toll bridge.

Columbus, Ohio, July 18, 1957

Mr. Russell M. Wilhelm, Chairman
State Bridge Commission of Ohio, Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“The State Bridge Commission has contracted for the pur-

chase of the Fullerton-Portsmouth Bridge which spans the Ohio River at Portsmouth, and is arranging to issue Bridge Revenue Bonds for such purpose. In connection with such acquisition of this bridge, it is the judgment of this Commission that certain improvements are necessary to place the bridge in efficient operation, such as lighting, widening of roadway approaches, construction of islands, toll houses, etc., in accordance with engineers' recommendations.

"We are mindful of the opinion of your predecessor appearing in Opinions of the Attorney General for 1953 at page 71, holding that revenue bonds could not be issued to pay the cost of improving a bridge owned by the state.

"We respectfully request your opinion as to whether or not this Commission may issue bridge revenue bonds for the purpose of paying the cost of purchasing a bridge and improving the same."

In the 1953 opinion to which you refer, the writer had for consideration the provisions of Senate Bill No. 356, 99th General Assembly, a special enactment empowering the State Bridge Commission to assume jurisdiction over and charge tolls for the use of the Steubenville-Weirton Bridge, this for the purpose of financing certain necessary improvements to such bridge and the approaches thereto. This enactment constituted an exception to the powers previously granted the commission and provided for taking possession of a bridge with respect to which all bonds theretofore issued had been earlier redeemed, and which bridge had for a time been made toll-free.

The writer of that opinion, quite correctly I think, held that under the provisions of such special act the only means of financing the improvements was the use of tolls actually collected, and that such act did not authorize issuance of bonds in the special situation there involved.

In the instant case, we may note initially that since the enactment in 1949 of former Section 1084-15c, General Code, now Section 5593.18, Revised Code, the commission has been and is now without power to construct or to contract for the construction of a bridge or to issue bonds for such purpose.

Because under the provisions of Section 5593.03, Revised Code, as this section existed on the date of the 1949 amendment, authority was given to the commission to *construct* bridges *or acquire* them by purchase, it is apparent that the 1949 enactment, *supra*, has since that date limited the

power to construct, but it provides no impediment to acquisition by purchase.

In Section 5593.10, Revised Code, the commission is granted authority, in clear terms, to finance the "cost of bridges" by the use of bond proceeds, it remains merely to inquire whether the expenditure which you propose would be made for such "cost." In your query you indicate that in addition to the actual purchase price of an existing bridge you propose to make certain improvements which are necessary to place the bridge in efficient operation.

The expression "cost of bridges," as thus used in Section 5593.10, *supra*, is defined in Division (C) of Section 5593.01, Revised Code, as follows:

" * * * '*Cost of bridge*' as applied to a bridge to be constructed or acquired by purchase or condemnation includes the estimated cost of construction or the cost of acquisition, cost of improvements, * * *"
(Emphasis added.)

It appears to me that the use of the expression "cost of improvements" in such close proximity to the expression "cost of acquisition," is indicative of the legislative view that in the normal situation where an existing bridge is acquired by purchase it could be expected that certain improvements would be required in order to place the structure in condition suitable for operation as a toll bridge.

For these reasons it is my conclusion that the State Bridge Commission is authorized under the provisions of Chapter 5593., Revised Code, to issue revenue bonds and to expend the proceeds thereof in the acquisition of an existing bridge and to defray the cost of such improvements thereto as may be reasonably necessary to make such structure suitable for operation by the commission as a toll bridge.

Respectfully,
WILLIAM SAXBE
Attorney General