

Specifically answering your inquiry, I am of the opinion that neither the Treasurer of State nor the Superintendent of Banks has the legal authority to enter into an agreement concerning the depositing of securities under Section 710-150, General Code, on any other terms and conditions than those set forth in that and succeeding sections.

Respectfully,  
 GILBERT BETTMAN,  
*Attorney General.*

4405.

AUTOMOBILE—SANITARY ENGINEER—COST MAY BE PAID FROM  
 WATER RENTALS AND SEWER MAINTENANCE ASSESSMENTS.

*SYLLABUS:*

*An automobile purchased for use by a sanitary engineer may be paid for from funds derived from water rentals and sewer maintenance or operation assessments which are collected in an established sewer district for the purpose of paying the cost of maintaining and operating a water works and sewer system in such district, provided the use of said automobile is confined to said district. The amount paid from each of said funds should be fairly proportionate to the use which is to be made of such automobile for each of said systems.*

COLUMBUS, OHIO, June 8, 1932.

HON. J. FRANK POLLOCK, *Prosecuting Attorney, Painesville, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

“The County Commissioners of Lake County are considering purchasing an automobile for the Sanitary Engineer. The purchase price of the automobile to be paid from funds derived from water rents collected under the provisions of Section 6602-17 of the General Code and by the sewer and maintenance assessments, or must it be purchased from the general fund?”

Section 2412-1, General Code, reads in part as follows:

“That, whenever the board of county commissioners, deems it necessary to purchase a motor vehicle or vehicles for the use of the sheriff or sanitary engineer, their deputies or necessary employes they shall adopt a resolution setting forth the necessity for such purchase, together with a statement of the kind and number of vehicles required and the estimated cost of each such vehicle.

Upon the adoption of said resolution the board of county commissioners may purchase said vehicles for the use and purposes of the aforesaid persons or any of them.”

In Opinions of the Attorney General for 1928, Vol. I, page 63, it was held that an automobile purchased for a dog warden must be paid for from the

general fund and not from the dog and kennel fund. This holding was based upon the construction of the words "and other equipment" as used in section 5652-13. As this section provides that such fund may be used for paying the cost of "furnishing all blanks, records, tags, nets and other equipment," the words "and other equipment" were construed to be applicable only to things of the same general nature or class as "nets".

In your memorandum you say that Lake County maintains an extensive sewer and water works system and that it is necessary to have men out on the roads for the purpose of inspection, making repairs and reading meters. Section 6602-1, General Code, provides for the establishment by counties of sewer districts. Section 6602-8b, General Code, provides that after the completion of the construction of a sewer system in a sewer district "the board of county commissioners may, from time to time and at such intervals as they may deem expedient, assess the lots and parcels of land specified in said notice of assessment and levy taxes upon the taxable property of the district so improved, to pay the cost of the maintenance and operation of any such improvement or improvements, including disposal of sewage". I am informed that such maintenance assessments are being levied in the district in question.

Section 6602-17, General Code, provides for the construction, maintenance and operation of a public water supply or water works system for any established sewer district. This section further provides as follows:

"The commissioners may fix reasonable rates to be charged for water, when the source of supply or distributing pipes are owned by the county or district. \* \* \* Such fund shall be applied first to the conduct, management and operation of such water supply or water works system, and any surplus thereafter remaining shall be applied to the enlargement or extension thereof, to the payment of interest or principal of any loan, indebtedness or liability incurred in connection therewith, or for the creation of a sinking fund for the liquidation of any debt created in connection therewith; but in no case shall money so collected be expended otherwise than for the use and benefit of such district."

Section 6602-23, General Code, provides in part as follows:

"The cost of any improvement herein provided for, and the cost of the maintenance and operation thereof, shall include, in addition to the cost of construction, the cost of engineering, necessary publications, inspection, interest on certificates of indebtedness or on bonds, and all other items of cost incident to such improvement."

It is seen, therefore, that all costs properly incident to the operation of the sewer and water supply systems of a sewer district may be paid out of the maintenance or operation assessments and water rentals respectively. An automobile which is necessary to the use of making inspections and repairs and in reading meters can properly be considered as part of the cost of the operation and maintenance of such improvements.

I am of the opinion, therefore, that an automobile purchased for use by a sanitary engineer may be paid for from funds derived from water rentals and sewer maintenance or operation assessments which are collected in an established sewer district for the purpose of paying the cost of maintaining and operating a water works and sewer system in such district, provided the use of said automo-

bile is confined to said district. The amount paid from each of said funds should be fairly proportionate to the use which is to be made of such automobile for each of said systems.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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4406.

APPROVAL, CONTRACT FOR ROAD IMPROVEMENT IN CRAWFORD  
AND FRANKLIN COUNTIES.

COLUMBUS, OHIO, June 9, 1932.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

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4407.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND JOHN HERREL AND SONS, INC., COLUMBUS, OHIO, FOR THE CONSTRUCTION, COMPLETION AND INSTALLATION OF REFRIGERATOR AND FISH BOX AT OHIO SOLDIERS' AND SAILORS' ORPHANS' HOME, XENIA, OHIO, AT AN EXPENDITURE OF \$440.00.

COLUMBUS, OHIO, June 10, 1932.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works for the Ohio Soldiers' and Sailors' Orphans' Home, Xenia, Ohio, and John Herrel & Sons, Inc., Columbus, Ohio. This contract covers the construction, completion and installation of proposed substitution for Item No. 5, Alternate No. 3, Refrigerator and Item No. 6, Alternate No. 4, Fish box but not including Item No. 1, Item No. 3, and Item No. 4, Kitchen and Dining Room Equipment, Ohio Soldiers' and Sailors' Orphans' Home, Xenia, Ohio, in accordance with the form of proposal dated March 11, 1932. Said contract calls for an expenditure of four hundred and forty dollars (\$440.00).

You have submitted the certificate of the Director of Finance, to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also shown that the Controlling Board has approved the expenditure as provided by House Bill No. 624, of the 89th General Assembly. Inasmuch as the contract price is under three thousand dollars (\$3,000.00), no bond is required.

You have further submitted evidence indicating that the plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as