

2221.

## APPROVAL, CONTRACT FOR ROAD IMPROVEMENT IN FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, August 9, 1930.

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

2222.

## TOWNSHIP TRUSTEES—RIGHT TO \$2.50 A DAY FOR SERVICES ON ROAD IMPROVEMENTS AUTHORIZED BY SECTION 5541-8, GENERAL CODE—CONDITION NOTED.

## SYLLABUS:

*Township trustees may receive compensation at the rate of \$2.50 per day for their services in connection with the improvement of roads with funds arising from the provisions of Section 5541-8, General Code, so long as such compensation does not exceed the limitation of \$250.00 set forth in Section 3294, General Code.*

COLUMBUS, OHIO, August 11, 1930.

HON. HOWARD GOLDSBERRY, *Prosecuting Attorney, Chillicothe, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication which reads:

“The trustees of Harrison Township in Ross County are very desirous of your opinion upon the following matter:

Section 3372 of the General Code provides that the trustees shall receive \$2.50 a day for services in the discharge of their duty in the maintenance and repair of roads and culverts within the township, consequently these trustees desire to know if they are entitled to the same compensation of \$2.50 a day for overseeing and services in the improvement of the county roads within the township, under Section 5541-8 of the General Code, provided, however, that their total compensation does not amount to the sum of \$250.00.”

In my Opinion No. 2039, issued under date of July 27th, 1930, it was held as disclosed by the syllabus that:

“A township trustee, in the performance of his duties in connection with the improvement of roads by the use of the gasoline tax moneys provided for under Section 5541-8 of the General Code, is engaged in the business of the township and may not receive compensation for such services in excess of the limitations provided in Section 3294 of the General Code.”

A copy of said opinion is herewith enclosed for your information. In the body of said opinion, with reference to the funds arising for the benefit of the township under Section 5541-8, the following is stated:

"Obviously, when the trustees are using said funds for the purposes mentioned in said section, they are functioning in their official capacity in the performance of their duties for the township."

There is here a clear recognition of the fact the services rendered by township trustees in connection with the improvement of roads with funds derived through the provisions of Section 5541-8, General Code, are services for which Section 3294 provides compensation. The opinion further holds that the \$250.00 limitation as to annual compensation set forth in Section 3294 is applicable.

In specific answer to your inquiry, it is my opinion that township trustees may receive compensation at the rate of \$2.50 per day for their services in connection with the improvement of roads with funds arising from the provisions of Section 5541-8, General Code, so long as such compensation does not exceed the limitation of \$250.00 set forth in Section 3294, General Code.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

2223.

FUNDS—DEPOSITED BY DEPUTY COMMISSIONER OF MOTOR VEHICLES IN A BANK—WHEN BANK INSOLVENT, STATE OBTAINS PREFERRED CLAIM.

*SYLLABUS:*

*When a deputy commissioner of motor vehicles deposits funds collected by him in the sale of motor vehicle license plates, in a bank as deputy commissioner, such funds are held by the bank in trust for the state, and in the event of the liquidation of such bank, by the Superintendent of Banks, the state has a preferred claim to the extent of the balance of such deposit.*

COLUMBUS, OHIO, August 11, 1930.

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

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

"Section 6291-1, General Code, reads in part as follows:

'The Commissioner of Motor Vehicles shall designate the county auditor and one or more persons in each county to act as deputy commissioners, who shall accept applications for the annual license tax, and assign distinctive numbers in the same manner as the Commissioner of Motor Vehicles. Such deputy commissioners shall be located in such cities or villages in the county as the Commissioner sees fit.'

And then later in this same section it reads as follows:

'Each deputy commissioner shall be required to give bond the form and amount of which shall be prescribed by the Commissioner of Motor Vehicles.'

Section 6294, G. C., under paragraph five reads in part as follows:

'Each deputy commissioner other than the county auditor shall forthwith, upon receipt of any application for registration together with the license fee, transmit such fee together with a duplicate copy of the application to the county auditor of the county in which such person resides.'