

3876.

APPROVAL, BONDS OF BEDFORD CITY SCHOOL DISTRICT, CUYAHOGA COUNTY, OHIO, \$39,000.00.

COLUMBUS, OHIO, January 29, 1935.

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

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3877.

APPROVAL, BONDS OF CUYAHOGA FALLS CITY SCHOOL DISTRICT, SUMMIT COUNTY, OHIO, \$1,000.00.

COLUMBUS, OHIO, January 29, 1935.

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

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3878.

APPROVAL, BONDS OF CITY OF ROCKY RIVER, CUYAHOGA COUNTY, OHIO, \$49,300.00.

COLUMBUS, OHIO, January 29, 1935.

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

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3879.

MUSKINGUM CONSERVANCY DISTRICT—MONEY MAY BE ALLOCATED THERETO IN MONTHLY PAYMENTS UPON AGREEMENT BETWEEN CONTROLLING BOARD AND BOARD OF DIRECTORS OF SAID DISTRICT.

**SYLLABUS:**

*Upon agreement between the controlling board and the board of directors of the Muskingum Watershed Conservancy District, the money appropriated to the uses and purposes of that district by House Bill No. 61 of the 90th General Assembly, second special session, may be allotted in monthly payments to the district upon requisitions and vouchers to cover estimated requirements of the district for the next succeeding month.*

COLUMBUS, OHIO, January 29, 1935.

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

DEAR SIR:—Your letter of recent date is as follows:

"We respectfully request your written opinion upon the following question:

"May payments be made to the Muskingum Watershed Conservancy District upon requisitions and vouchers issued monthly for a *lump sum* to cover their estimated payments for the succeeding month, same to be paid to the treasurer of said district, or, should the said requisitions and vouchers be itemized, indicating the parcels of real estate to be purchased upon said requisition and voucher?"

The appropriation, as you will recall, for the state's portion of the Muskingum Watershed Conservancy District is \$2,000,000. What I wish to know is whether or not the law requires that we pay this sum out on itemized vouchers instead of a lump sum; if lump sums only, we would not have in this office anything to show what parcels of land would be bought, or what the payments for each amounted to, or the cost of each parcel."

Conservancy districts may be organized and incorporated pursuant to the Conservancy Act of Ohio, contained in Sections 6828-1 to 6828-79, both inclusive, of the General Code. Such districts are under the supervision and control of a board of three directors, whose appointment is authorized by Section 6828-8, General Code. Such boards have express authority to acquire land, the right of eminent domain and condemnation, as set forth in Sections 6828-15, 6828-17 and 6828-18, General Code. The title to land acquired by a board of directors of a conservancy district is necessarily taken in the name of the district.

The financial administration of such districts is provided for in Sections 6828-42, et seq., of the General Code. The board of directors is expressly authorized to levy special assessments and also to borrow money and issue bonds. Sections 6828-43, 6828-44, 6828-44a and 6828-47. The treasurer of the district, who may be the secretary or some other person appointed by the board under the provisions of Section 6828-11, General Code, is authorized to receive under orders of the board any and all moneys for the district from the sale of bonds or from any other source and such moneys may be deposited in a suitable bank or banks as a depository under authority of Section 6828-47, General Code. It is evident from a consideration of the foregoing and other sections of the Conservancy Act of Ohio that a conservancy district is a unit separate and distinct from the departments of the state government.

The appropriation to which you refer is contained in House Bill No. 61, passed by the 90th General Assembly at its second special session as an emergency measure on March 27, 1934. Section 1 of this act provides as follows:

"For the purpose of providing for cooperation of the state with the Muskingum watershed conservancy district and for the benefit of the state and the state's lands benefited by said improvement there is hereby appropriated out of any moneys in the state treasury to the credit of the general revenue fund and not otherwise appropriated the following sum:

#### CONTROLLING BOARD

To the uses and purposes of the Muskingum watershed conservancy district improvement project .....\$2,000,000.00

(To be allotted to the Muskingum watershed conservancy district to assist in the acquisition of rights of way, flood easements, to employ labor, clerical help, purchase material and otherwise advance the improvement project of said district. The moneys hereby appropriated shall be distributed to said con-

servancy district upon such terms and conditions as may be mutually agreed upon between said controlling board and the board of directors of said Muskingum watershed conservancy district)."

The foregoing section, after setting forth the purpose of the appropriation, expressly provides that the controlling board and the board of directors may mutually agree upon the terms and conditions of the distribution of these funds. This provision with respect to the distribution of the moneys appropriated is not limited in any way except that it shall be upon such terms and conditions as may be so mutually agreed upon. It would appear, therefore, that if the controlling board should determine that the funds appropriated to the Muskingum Watershed Conservancy District improvement project be distributed upon requisitions and vouchers issued monthly for a lump sum to cover estimated needs of the district for the succeeding month to effectuate the purpose of the appropriation and such determination is agreed to by the board of directors of the district, such manner of distribution would be clearly authorized by Section 1 of House Bill No. 61, supra.

In the event of the approval of the controlling board of this plan of distribution, your office will, of course, not have a complete record of each parcel of land acquired or the cost of payments thereon, as indicated in your communication. I do not, however, find any requirement of law that such a record be kept in your office in view of the fact that the land in question which may be acquired by the district is obviously not to be acquired in the name of the state, but rather in the name of the Muskingum Watershed Conservancy District. As a matter of fact, the purpose of the appropriation was not limited to the acquisition of land but in broad terms "to the uses and purpose of the Muskingum watershed conservancy district" and also to "advance the improvement project of said district." It is observed that provision is otherwise made whereby your office is required to check the use of moneys appropriated by the General Assembly to determine that such use is in accordance with the terms of the appropriation; I refer, of course, to Sections 274, et seq., with respect to the powers and duties of the Bureau of Inspection and Supervision of Public Offices in your department.

Specifically answering your question, it is my opinion that upon agreement between the controlling board and the board of directors of the Muskingum Watershed Conservancy District, the money appropriated to the uses and purposes of that district by House Bill No. 61 of the 90th General Assembly, second special session, may be allotted in monthly payments to the district upon requisition and vouchers to cover estimated requirements of the district for the next succeeding month.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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3880.

APPROVAL, BONDS OF WILLS RURAL SCHOOL DISTRICT, GUERNSEY COUNTY, OHIO, \$3,275.91.

COLUMBUS, OHIO, January 30, 1935.

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