

required by Section 12 of House Bill No. 502 of the 87th General Assembly. In addition you have submitted a contract bond upon which the Hartford Accident and Indemnity Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies have been complied with. No industrial certificate has been furnished as required by Section 2319, General Code, but you inform me that the reason for failure to furnish such certificate lies in the fact that the contractor has just been billed for the industrial premium for the current period and that payment of the same may be expected within the next few days. This approval opinion is therefore conditioned upon your procuring the required industrial certificate before the contractor enters into the execution of the contract.

Finding said contract and bond in proper legal form, except as above noted, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
 EDWARD C. TURNER,
Attorney General.

2610.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND R. BURTON CHILD, FINDLAY, OHIO, FOR THE EXTENSION OF TUNNELS, KENT STATE NORMAL SCHOOL, KENT, OHIO, AT AN EXPENDITURE OF \$15,174.00—SURETY BOND EXECUTED BY THE HARTFORD ACCIDENT & INDEMNITY COMPANY.

COLUMBUS, OHIO, September 22, 1928.

HON. RICHARD T. WISDA, *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 Board of Trustees, Kent State Normal School, Kent, Ohio, and R. Burton Child, of Findlay, Ohio. This contract covers the construction and completion of General Contract for Tunnel (exclusive of Tunnel Lighting, Steam Piping, Water Piping, Gas Piping and Electric Wiring) Extension of Tunnels, Kent State Normal School, Kent, Ohio, and calls for an expenditure of fifteen thousand one hundred and seventy-four dollars (\$15,174.00).

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 furnished evidence to the effect that the consent and approval of the Controlling Board to the expenditure has been obtained as required by Section 12 of House Bill No. 502 of the 87th General Assembly. In addition you have submitted a contract bond, upon which the Hartford Accident & Indemnity Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2611.

TRUST FUND—WILLED TO BOARD OF EDUCATION AS TRUSTEE FOR
SCHOOL—JURISDICTION OF EQUITY COURT DISCUSSED.

SYLLABUS:

1. *Where funds are left by will to a board of education in trust for certain purposes, with right of investment and reinvestment of the principal and the application of the income to such purposes, such board of education functions in the capacity of a trustee and is subject to the equitable jurisdiction of the courts with respect to the administration of such trusts.*

2. *Sections 7604, et seq., of the General Code, have no application to the deposit of funds held by a school district in trust and which are not available for ordinary school purposes.*

COLUMBUS, OHIO, September 22, 1928.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge your recent communication in which you ask that I give you my opinion on certain questions submitted by one of your examiners on a statement of facts which you enclose. The statement of facts is too long to be incorporated in full herein, but I shall restate such portions of the facts as seem to me to be pertinent to the questions raised.

Upon the death of one of the prominent citizens of the City of Toledo, Edward Drummond Libbey, there were left to the Board of Education of the Toledo City School District three separate bequests, viz., a teachers' scholarship fund of \$100,000, a students' scholarship fund of \$200,000 and a Libbey high school library fund of \$15,000. The specific items of the will with relation thereto are not furnished except as to the students' scholarship fund, the will with respect to this providing as follows:

"ITEM XX. From the rest, residue and remainder of my estate I give and bequeath unto the Board of Education of the City School District of the City of Toledo, in Lucas County, Ohio, and unto its successor and successors, the sum of Two Hundred Thousand Dollars (\$200,000) as a perpetual endowment, to be known and designated 'The Edward Drummond Libbey Scholarship Fund', the capital thereof to be held, managed, controlled, invested and reinvested by it and them separate and distinct from all other property, and the income therefrom to be divided each year into equal parts as near as may be of not more than Three Hundred Dollars (\$300.00) each, to be designated 'Edward Drummond Libbey Scholarship', and to be awarded respectively to worthy and ambitious students residing in said City School District of said City of Toledo, desiring to avail themselves of courses in mechanical or fine arts or to obtain a technical, as distinguished from an academic education, in the schools of said school district, who would otherwise,