

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 have been obtained as required by Section 11 of House Bill 510 of the 88th General Assembly. In addition, you have submitted a contract bond, upon which the Massachusetts Bonding and Insurance 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,  
GILBERT BETTMAN,  
*Attorney General.*

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1266.

APPROVAL, BONDS OF GEAUGA COUNTY—\$14,960.75.

COLUMBUS, OHIO, December 6, 1929.

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

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1267.

DISAPPROVAL, LEASE FOR PIPE LINE RIGHT OF WAY ON CANAL LAND IN WASHINGTON TOWNSHIP, SCIOTO COUNTY—MINAMAX GAS COMPANY, PORTSMOUTH, OHIO.

COLUMBUS, OHIO, December 6, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You recently submitted for my examination and approval a certain lease indenture in triplicate executed by you as Superintendent of Public Works and as Director of said department, by which there is leased and demised to the Minamax Gas Company of Portsmouth, Ohio, certain portions of abandoned canal lands in Washington Township, Scioto County, Ohio, therein more fully described, and also a right of way to maintain a pipe line along the northerly embankment of the Ohio canal, extending from the westerly line of the above described property, at or near Station 2633-55 easterly, three thousand (3000) feet, more or less, to the Scioto River.

This lease, which is one for the stated term of fifteen years, calls for an annual rental of \$160.00, of which \$100.00 is the annual rental of said parcels of land leased for filling station and park site purposes, and \$60.00 is the annual rental for the pipe line right of way privilege.

The lease of the two parcels of Ohio canal lands provided for in said lease indenture is, I assume, under the authority of Section 14203-14, General Code, which is

Section 3 of the Act of 1911 providing for the abandonment of the Ohio Canal from Buckeye Lake to a point on the Ohio River near Portsmouth. This section of the act above referred to authorizes you, as successor to the State Board of Public Works, to lease or sell said abandoned Ohio canal lands subject to the approval of the Governor and the Attorney General, with the provision that the proceedings for the lease or sale of said lands shall be in strict conformity to the various provisions of the statutes relating to the leasing and selling of said canal lands, with the exception that the granting and leasing shall be for a term of not less than fifteen nor more than twenty-five years.

I see no legal objection to the lease of the two parcels of Ohio abandoned canal lands described in said lease. However, I am unable to approve that part of said lease which grants to said named lessee a right of way for a pipe line along the Ohio canal. An examination of the resolution adopted by the directors of The Minamax Gas Company authorizes the president of the company to sign the lease on behalf of said company, but goes no further than to authorize the execution of the lease for the two parcels of abandoned Ohio canal lands above referred to, and confers upon the president of said company who signed said lease no authority with respect to said pipe line, and said lease is, for that reason, disapproved.

In this connection, I may add that there is some question in my mind as to your authority under the provisions of Section 13970, General Code, to grant the right to lay pipe lines along canal or reservoir banks except for the purpose of transporting oil or gas from natural oil or gas fields. How the pipe line here in question is to be used does not appear from the terms of the lease and, for this reason, I am expressing no opinion with respect to this feature of the lease. However, the lease is disapproved for the reason first above stated, and I am returning the same, together with the duplicate and triplicate copies thereof, without endorsing my approval thereon.

Respectfully,

GILBERT BETTMAN,  
Attorney General.

1268.

**MUNICIPALITY—BUILDING PERMIT FEE FROM STATE AND COUNTY PROHIBITED—ALLOWED ELEVATOR INSPECTION CHARGE AGAINST COUNTY OR SCHOOL DISTRICT BUT NOT AGAINST STATE.**

**SYLLABUS:**

1. *A municipality may not exact a building permit fee from the state or county when a state or county building is to be constructed in such municipality.*
2. *A municipality may not exact a fee for inspection of elevators in buildings belonging to the state which are located in such municipality.*
3. *A municipality may exact a fee for inspection of elevators in buildings belonging to a county or school district which are located in such municipality.*

COLUMBUS, OHIO, December 6, 1929.

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

GENTLEMEN:—This is to acknowledge receipt of your recent communication which reads:

“The syllabus in the case of *Niehaus vs. State ex rel. Board of Education of the City of Dayton*, 111 O. S. 47, reads:

- ‘1. Section 1035, General Code, which requires the building inspection