

have this contract upheld. Aside from the question of a lack of authority, it appears to me that the county would be placing itself in a rather inconsistent position if, while contending for the validity of the contract, it were to impair the funds which are to be used for carrying out the contract. In any event, the sections of the Budget Law herein quoted have made special provisions for the expenditure of public funds, and there appears no authority for adopting the course of procedure outlined in your letter.

Summarizing and in specific answer to your question, I am of the opinion that when, under a co-operative agreement between a county and a municipality for the construction of a road improvement within the municipality, as provided in Sections 6949, et seq., General Code, a municipality has paid into the county treasury its portion of the estimated cost and expense of such improvement and a contract has been entered into for such improvement after the certificate required by Section 5625-33, General Code, has been executed, there is no authority vested in the board of county commissioners of such county to return to the municipality such money so paid into the county treasury on account of the fact that pending litigation may result in delaying construction of the improvement.

• Respectfully,
GILBERT BETTMAN,
Attorney General.

1534.

APPROVAL, NOTES OF ADAMS RURAL SCHOOL DISTRICT, CHAMPAIGN COUNTY—\$25,000.00.

COLUMBUS, OHIO, February 18, 1930.

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

1535.

APPROVAL, NOTES OF NORWICH TOWNSHIP RURAL SCHOOL DISTRICT, FRANKLIN COUNTY—\$85,000.00.

COLUMBUS, OHIO, February 18, 1930.

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

1536.

WORKMEN'S COMPENSATION LAW—VOLUNTEER VILLAGE FIREMEN AS MEMBERS OF LAWFULLY CONSTITUTED FIRE DEPARTMENT UNDER AN APPOINTMENT OR CONTRACT OF HIRE, ENTITLED TO SUCH LAW'S BENEFITS.

SYLLABUS:

Volunteer firemen of incorporated villages who are members of a lawfully constituted fire department of such village, and are serving as such under an appointment or contract of hire, are employes within the meaning of the workmen's compensation act