

1712.

OHIO REVOLUTIONARY MEMORIAL COMMISSION—PURCHASE OF TRAIL AND HISTORIC MARKERS MUST BE MADE AFTER COMPETITIVE BIDDING UNLESS CONTROLLING BOARD PROVIDES OTHERWISE.

SYLLABUS:

The Ohio Revolutionary Memorial Commission as created by Amended Senate Bill No. 91, 113 O. L. 547, by reason of the express provisions of House Bills Nos. 510 and 513 of said General Assembly, is required to obtain competitive bids before expending funds for labor, material or commodities, unless the controlling board authorizes the furnishing of such labor, material or commodities without competitive bids.

COLUMBUS, OHIO, April 1, 1930.

HON. A. D. HOSTERMAN, *Chairman, Ohio Revolutionary Memorial Commission, Springfield, Ohio.*

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

“Our Commission is about to place the order for trail and historic markers under the Bill passed by the last Legislature. We are planning payment for these markers to be made out of the appropriation available to our Commission.

We have not found any way to standardize the type of marker we wish to use, so that it would seem invitations could be extended to competing firms to submit prices, in fact, we know of but one company in Ohio qualified to produce and give us what we think best adapted for the purpose.

Our Commission did decide some time ago if an Ohio company could be found to furnish what was decided, that we would not ask any concern outside of Ohio to compete.

I am now writing to ask whether under the Bill as passed by the Legislature creating our Commission and making the appropriation available, you would consider that the Commission would be necessarily bound to take competing bids.”

Amended Senate Bill No. 91, as enacted by the 88th General Assembly, 113 O. L. 547, provides for the creation of an Ohio Revolutionary Memorial Commission to consist of nine members, two of whom shall be the director and secretary of the Ohio State Archaeological and Historical Society, and the other members of which shall be appointed by the Governor.

Among the various duties set forth in the act in question, said Commission is authorized to erect approximately thirty-five monuments or markers with bronze tablets at points of historic interest along the Ohio revolutionary trail where no suitable marker or monument exists, with at least one marker in each county through which the trail passes, including twelve locations specifically set forth in said act. Said act further provides:

“The commission may erect along the trail stone mile posts or other markers of a distinctive and uniform character giving information as

to distances to points of historic, geological, archaeological, or scenic interest. Upon request of the commission the director of highways shall assist in the erection and location of such markers, and furnish for such work, equipment, motor trucks, and labor."

Section 6 of the act hereinbefore mentioned authorized the commission to purchase real estate for sites for the monuments, statues and memorials, and further provides that such memorials may be located within the limits of public roads and highways with the approval of the Director of Highways.

An examination of the appropriation acts of the 88th General Assembly discloses but one item for the use of your commission which is found in House Bill No. 513 which was an act entitled:

"AN ACT

To make supplementary appropriations for the biennium beginning January 1, 1929."

Said item reads:

"OHIO REVOLUTIONARY MEMORIAL COMMISSION

Maintenance—

For the uses and purposes of the Ohio Revolutionary Memorial Commission, as provided by S. B. No. 91, 88th General Assembly, not to exceed	50,000 00
Total maintenance-----	50,000 00"

Section 2 of said House Bill No. 513, essential to consider in connection with your inquiry, provides:

"The provisions of Sections 3 to 13, both inclusive, of House Bill No. 510, 88th General Assembly, entitled 'An act to make general appropriations,' insofar as they may be applicable, shall apply to and govern the appropriations made herein with the same force and effect as to the appropriations made in said original act hereinbefore cited."

In view of the provisions of Section 2 of the appropriation bill under consideration, it is necessary to examine the provisions of House Bill No. 510 as enacted by the 88th General Assembly, which is the general appropriation bill, in order to determine the conditions attached to said appropriation,

Section 7 of said House Bill No. 510 contains the following provision:

"If the order and invoice drawn against any appropriation herein made is for labor and materials furnished or for commodities purchased it shall show that the same was furnished or purchased pursuant to competitive bidding and that the lowest and/or best bidder was awarded the contract, unless the controlling board shall have authorized the furnishing of such labor or material or the purchase of such commodities without competitive bidding."

By reason of the express provisions of the appropriation bills hereinbefore

mentioned, the conclusion is inescapable that your commission may not expend any funds appropriated to it for the purpose of paying for labor and materials or for commodities purchased unless the same is purchased pursuant to competitive bids, unless, of course, the controlling board shall have authorized the furnishing of such labor and material or the purchase of commodities without competitive bids.

In specific answer to your inquiry, you are advised that the Ohio Revolutionary Memorial Commission as created by Amended Senate Bill No. 91, 113 O. L. 547, by reason of the express provisions of House Bills Nos. 510 and 513 of said General Assembly, is required to obtain competitive bids before expending funds for labor, material or commodities, unless the controlling board authorizes the furnishing of such labor, material or commodities without competitive bids.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1713.

MOTOR VEHICLE LICENSE—APPLICATIONS MADE FROM RESIDENTS OF OHIO COUNTIES DIRECT TO COMMISSIONER OF MOTOR VEHICLES—FEES SHOULD BE RETURNED TO COUNTIES—INTEREST NOT CHARGEABLE AGAINST BANKS IN COLUMBUS HOLDING SUCH MONEY FOR TRANSPORTATION—EXCEPTION.

SYLLABUS:

1. *When persons in the various counties of this state make application for motor vehicle licenses direct to the Commissioner of Motor Vehicles, the motor vehicle license taxes accompanying such applications should be forwarded to the counties from which they came.*
2. *When such funds are deposited by the Commissioner of Motor Vehicles in Columbus banks solely for the purpose of transmission, and do not there remain for an unreasonable length of time, such banks are not liable for interest in the absence of a contract providing for the payment of interest.*

COLUMBUS, OHIO, April 1, 1930.

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

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

“Section 6294 of the General Code of Ohio provides among other things that a person may make application for license plates direct to the Commissioner of Motor Vehicles. Pursuant to the provisions contained in this section large numbers of applicants from every county in the state mail their applications and fees direct to the Commissioner of Motor Vehicles. Whereupon the Commissioner of Motor Vehicles transmits a copy of the application together with the fee to the county auditor of the county in which said applicant resides. The various county auditors then make distribution in accordance with the laws as made and provided in such cases.

To safeguard the fees thus collected by the commissioner pending