

OHIO TURNPIKE COMMISSION

Resolution No. 3-1951

By Mr. McKay

Seconded by Mr. Seasingood and Mr. Teagarden

WHEREAS, the Attorney General of Ohio, by appointment dated May 1, 1951, pursuant to Section 336 of the General Code of Ohio, and pursuant to the Motion adopted by this Commission on April 3, 1951, has designated the firm of Squire, Sanders and Dempsey, Attorneys at Law, Cleveland, Ohio, as special counsel to act and serve as bond counsel for the Ohio Turnpike Commission; and

WHEREAS, this Commission deems it necessary and advisable to provide for bond counsel with respect to the issuance and sale of bonds to finance the construction of a proposed toll turnpike project which, when adopted by the Commission and approved by the Governor, is to be identified as Turnpike Project No. 1 on the records of the Commission hereinafter referred to as The Project, beginning at the eastern boundary of the State of Ohio and connecting with the western extension of the Pennsylvania Turnpike at the termination thereof at the Ohio boundary, and proceeding generally in a westerly direction across Ohio, the route and western terminus of said turnpike to be hereafter established as provided in Sections 1201 to 1222, inclusive, of the General Code of Ohio, and that it is necessary and advisable to name and employ bond counsel at this time;

WHEREAS, whenever the term "bond" or "bonds" or "obligations" occurs in this resolution, said term, if appropriate to the context, may be construed to mean any type of definitive bond, interim receipt or temporary bond, which said Commission is authorized to issue and sell by virtue of said Sections 1201 to 1222, General Code;

NOW, THEREFORE, BE IT RESOLVED, by the Ohio Turnpike Commission that the firm of Squire, Sanders and Dempsey, Attorneys at Law, Cleveland, Ohio, be and hereby is designated Bond Counsel of this Commission, and is hereby employed as such counsel, upon written acceptance by said counsel hereof, on the following terms and conditions and subject to the following provisions:

A. NATURE AND EXTENT OF LEGAL SERVICES TO BE PERFORMED BY BOND COUNSEL

Said bond counsel shall promptly and as expeditiously as is reasonably possible:

1. Assist and advise with the Commission in formulating terms and conditions of the financing of said project so that the Commission can offer bonds or other like obligations payable from the revenues of said project, which will be saleable upon the most favorable terms consistent with the security and the marketability of the bonds;
2. Study and investigate plans and engineering reports which the Commission from time to time may have or receive;
3. Participate with the Commission in discussions regarding financing;
4. Make recommendations concerning such financing and as to the documents required therefor;
5. Prepare and submit to the Commission all legislation necessary, incident or appropriate to make effective issuance and sale of bonds;
6. Prepare all necessary or appropriate documents, including the trust agreement or agreements, the form of temporary or definitive bonds or other obligation, bond purchase agreements, resolutions of the Commission which relate thereto and which relate to the establishment of tolls and other revenues and notices of sale;

7. Advise with the Commission respecting all such matters and things as are herein set forth, and attend such of its meetings as the Commission may require;

8. Pass upon and advise the Commission as to the legality of all the steps, proceedings and legislation of the Commission and all documents relating thereto or to the financing of such project;

9. Prepare and present to the Supreme Court of Ohio any question regarding the legal effect or validity of said bonds in event bond counsel shall find there exists any such question which would or might prevent bond counsel from rendering an opinion setting forth, its unqualified approval of the validity of said bonds, or like securities, provided institution of such action in the Supreme Court of Ohio shall first be requested by the Commission and approved by the Attorney General;

10. Generally, to prepare all legislation of and documents for the Commission necessary, proper or incident to the issuance and sale of said bonds to the best advantage, and to advise the Commission with reference thereto, the legal effect thereof, and any legal questions in connection therewith;

11. Render an approving opinion as to the validity of said bonds, or any installment thereof, upon their issuance and delivery for the benefit and reliance of the Commission and of the purchasers.

B. AMOUNT OF COMPENSATION TO BOND COUNSEL
METHOD OF DETERMINING THE SAME
AND TIME OF PAYMENT THEREOF

Said bond counsel, in full payment and compensation for services rendered and to be rendered hereunder, shall be paid and shall receive:

(1) A retainer fee in the amount of \$36,500.00 in behalf of all legal services rendered and to be rendered by bond counsel hereunder, payable from the proceeds of the first installment of bonds issued by the Commission.

(2) In addition to said retainer fee of \$36,500.00 above set forth, said bond counsel shall be paid at the rate of \$.33-1/3 for each \$1,000 of such bonds issued and sold by the Commission up to the aggregate amount of \$100,000,000 and at the rate of \$.25 for each \$1,000 of such bonds issued and sold by the Commission in excess of \$100,000,000.

(3) In addition to compensation for said legal services, as above provided, said bond counsel shall be paid and reimbursed for actual expenses necessarily incurred or paid by it for travel and subsistence and long distance telephone, telegraph and printing expenses, incurred by said counsel in the performance of its duties hereunder, as well as any other actual expenses necessarily to be incurred by said counsel in the performance of its duties hereunder, with the prior approval of the Commission.

It is stipulated that no compensation shall be paid or payable to bond counsel herein, based on the exchange of temporary bonds for permanent bonds.

It is to be expressly understood, and it is hereby stipulated that bond counsel shall look solely to the proceeds of the sale of bonds, as herein referred to, for its compensation for legal services, as herein provided, and for reimbursement of its expenses as herein set forth, and that this employment of bond counsel shall not and cannot create or constitute any right or cause of action whatsoever, save and except from the proceeds of bonds as herein defined.