

4523.

APPROVAL, BONDS OF CITY OF TOLEDO, LUCAS COUNTY,  
OHIO, \$21,000.00 (UNLIMITED).

COLUMBUS, OHIO, August 8, 1935.

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

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4524.

APPROVAL, BONDS OF CUYAHOGA COUNTY, OHIO, \$5,000.00.

COLUMBUS, OHIO, August 8, 1935.

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

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4525.

OLD AGE PENSION LAW—SELECTION OF OFFICE FOR  
COUNTY BOARD VESTED SOLELY IN THAT BOARD,  
NOT IN DIVISION OF AID FOR THE AGED.

**SYLLABUS:**

*The Division of Aid for the Aged is unauthorized to select or determine the location of the various county offices of the county boards of aid for the aged, such authority being vested solely in the respective county boards.*

COLUMBUS, OHIO, August 9, 1935.

HON. LOUIS J. SCHNEIDER, *Prosecuting Attorney, Cincinnati, Ohio.*

DEAR SIR:—Your request for my opinion is as follows:

“I have a request from the county commissioners of Hamilton county for an opinion as to their authority, in their capacity as County Board for Aid for the Aged under the Old Age Pension Law, to determine where the employees of the board shall be housed in this county.

I am informed that at present the department is housed in ade-

quate quarters, free of any rental charges, but that the State Division at Columbus, without the approval of the local board, has arranged for quarters at another location which calls for the payment of a high rental.

A perusal of the statutes indicates that the law is not clear as to where authority for the rental of quarters lies, and in view of the fact that this is a matter of statewide application, I respectfully request that you give an opinion in the premises."

Section 1359-11, General Code, reads in part as follows:

"For the purpose of administering the provisions of this act there is hereby created in the State Department of Public Welfare a Division of Aid for the Aged, herein referred to as the 'Division'.

Section 1359-12, reads in part, as follows:

"In each county of the state there shall be a Board of Aid for the Aged for the purpose of administering the provisions of this act, herein referred to as the 'Board.'

Section 1359-15, reads:

"The Division shall have the duty and authority to make rules and regulations governing applications for aid, certificates of aid, reports and records of the county Boards, method of appeal from decisions of a Board, appointment, qualifications, and salaries of investigators and other employees of the Boards, and all other proceedings under this act; and to prescribe forms for applications, certificates, reports, records and accounts of the Boards; and other matters; and such rules and regulations, and all decisions and orders of the Division, shall be binding upon all county Boards."

Section 1359-16, reads:

"The county Boards shall keep such records and make such reports as the Division shall prescribe.

Each Board shall have authority to employ, subject to approval by the Division, such investigators, clerks, and other employees as are absolutely necessary for the performance of its duties under this act, and to fix the compensation of all employees, subject to approval by the Division.

The salaries of employees, office supplies, and other necessary

expenses of each county Board, upon approval of vouchers therefor by the Division, shall be paid by the Treasurer of State, upon warrants drawn by the Auditor of State, and in manner similar to that in which salaries and expenses of state departments are paid, and as prescribed by the Auditor of State."

Nowhere in the Old Age Pension Law is there a specific provision imposing a duty upon either the county board or the Division, to select the location of the county office and to determine the rental, if any, to be paid for such office. In fact, as indicated by the statutes quoted above, broad general statements are employed in defining the duties of the county boards and the Division.

In my opinion No. 4516, rendered August 7, 1935, it was held that under the provisions of Section 1359-16, General Code, "a county Board of Aid for the Aged has the authority to employ such investigators, clerks and other employes as are absolutely necessary for the performance of its duties but all such appointments are subject to the approval of the Division of Aid for the Aged in the Department of Public Welfare. The Division of Aid for the Aged has no authority to appoint such employees but it is empowered to approve or reject any appointment made by the Board of Aid for the Aged."

No difficulty was encountered in reaching the conclusion in that opinion, because Section 1359-16, General Code, specifically states that each *Board shall have the authority to employ* certain necessary employees, *subject to the approval of the Division*. With respect to the selection of the county office no such provision exists.

What is the purpose of the county board? According to Section 1359-12, General Code, "In each county of the state there shall be a Board of Aid for the Aged for the purpose of administering the provisions of this Act. \* \* " It logically follows that unless authority is given to the Division with respect to certain administrative duties within the county, then the authority and duty to perform such functions must reside with the county board. While it is apparent from a mere reading of the old age pension law that there are many administrative functions which require approval by the Division, I am unable to find such authority on the part of the Division in the selection of the office for the county board.

If such authority exists, it must be found in Section 1359-15, General Code, wherein it is stated: "The Division shall have the duty and authority *to make rules and regulations* governing applications for aid, \* \* reports and records of the county boards, \* \* and to prescribe forms for \* \* reports, records and accounts of the boards and other matters; and such rules and regulations, and all decisions and orders of the Division shall be binding upon all county boards." This section makes it possible for the Division to coordinate the work of the county boards and to establish certain rules and regulations of

uniform application throughout the state. That this is necessary, is apparent. However, the power to make rules and regulations touching the procedure to be employed by all county boards in the performance of their duties does not remove from the said boards their duty or privilege to exercise their own judgment on those matters within their jurisdiction. When section 1359-12, General Code, created a board for the purpose of administering the provisions of the Old Age Pension Law in each county of the state, there was thereby given implied authority to said board to establish and determine the location of an office for the purpose of performing its statutory duties.

Specifically answering your inquiry, I am of the opinion that the Division of Aid for the Aged is unauthorized to select or determine the location of the various county offices of the county boards of aid for the aged, such authority being vested solely in the respective county Boards.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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4526.

APPROVAL, BONDS OF MACEDONIA VILLAGE SCHOOL DISTRICT, SUMMIT COUNTY, OHIO, \$3,200.00.

COLUMBUS, OHIO, August 9, 1935.

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

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4527.

APPROVAL, BONDS OF CITY OF NILES, TRUMBULL COUNTY, OHIO, \$2,000.00 (UNLIMITED).

COLUMBUS, OHIO, August 9, 1935.

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