

1927.

STATE TEACHERS' RETIREMENT SYSTEM—WHETHER OR NOT  
TEACHERS IN MUNICIPAL UNIVERSITY AT AKRON SHOULD  
RECEIVE CREDIT FOR PRIOR SERVICE—INSTITUTION FORM-  
ERLY BUCHTEL COLLEGE A PRIVATELY OWNED INSTITUTION.

1. *Schools or colleges or other institutions supported in whole or in part by the state or any subdivision thereof, and wholly controlled and managed by the state, or any subdivision thereof, have the period until September 1, 1921, in which to accept the requirements and obligations imposed by the state teachers' retirement system, but a person teaching in such school, college or institution, desiring prior service credit, must have been a teacher prior to the first day of September, 1920.*

2. *Service as a teacher in a privately endowed school, college or institution located within the state of Ohio, and which later becomes a tax supported institution under public control, should be allowed by the state teachers' retirement board in its computation of prior service as a teacher, even though such service as a teacher was rendered prior to the time that such school, college or university became a tax supported institution and under public control.*

3. *Under the provisions of section 7890-30 G. C. a claim of a teacher for prior service credit in the state teachers' retirement system, cannot cover service as a teacher in another state unless such service as a teacher was rendered in the public day schools of another state, and service in a state-supported institution outside of Ohio cannot be held to be service in the public day schools of such state.*

COLUMBUS, OHIO, March 19, 1921.

HON. W. E. KERSHNER, *Secretary State Teachers' Retirement Board, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your request for the opinion of this department upon two questions concerning the operation of the state teachers' retirement system. Your first question reads as follows:

“The Municipal University of Akron is a tax-supported institution, but until recent years was operated in the name of Buchtel college, a privately endowed institution. If the trustees of this institution which is now a public institution should vote to accept the privileges of the state teachers' retirement system, would service in this institution while it was operated as Buchtel college and before it became an institution supported by public funds be regarded as prior service?”

Pertinent sections of the statutes in part are as follows:

*Section 7896-2:*

“A state teachers' retirement system is hereby established for the teachers of the public schools of the state of Ohio. \* \* \*”

*Section 7896-26:*

“Each teacher, upon becoming a member, shall file a detailed statement of all his previous service as a teacher \* \* \*”

*Section 7896:*

“ \* \* \* the retirement board \* \* \* shall issue to each present-

teacher a certificate certifying to the aggregate length of all his prior-service as a teacher as defined in this act."

*Section 7896-1:*

" \* \* \* 'Prior service' shall mean all service as a teacher, as defined by this act, rendered before the first day of September, nineteen hundred and twenty, by a present-teacher and similar service in another state credit for which was procured by a present-teacher as provided by this act."

*Section 7896-1:*

" \* \* \* 'Teacher' shall mean \* \* \* any teacher in any school or college or other institution wholly controlled and managed, and wholly or partly supported by the state or any subdivision thereof, the board of trustees or other managing body of which shall accept the requirements and obligations of this act.

" 'Present-teacher' shall mean any person who was a teacher, as defined by this act, before the first day of September, 1920, and \* \* \*

"(b) who was a teacher of a school or college or other institution on said date, \* \* \* and who continued thereafter to be a teacher thereof until he, with the teaching staff of such school or college or other institution, became a member of the retirement system \* \* \*."

*Section 7896-22:*

"The membership of the retirement system shall consist of the following:

"(c) The teachers in any school or college or other institution supported in whole or in part by the state or any subdivision thereof and wholly controlled and managed by the state or any subdivision thereof shall become members on the same terms and conditions as the teachers in the public schools, provided that the board of trustees or other managing body of such school, college or other institution, if such institution is now in existence or if in existence on said date, shall agree by formal resolution adopted before September first, nineteen hundred twenty-one, to accept all the requirements and obligations imposed by this act upon employers of members. \* \* \* *Service in such schools, colleges or other institutions shall be then considered in every way the same as service in the public schools so far as the purposes of this act are concerned, \* \* \**"

In your statement of facts you indicate that Buchtel college, a privately endowed institution, later became the Municipal University of Akron, and is a tax-supported institution at this time. Your question is whether the teachers in the Municipal University of Akron should receive credit for prior service as teachers where such service was rendered in the same institution but at a time prior to its becoming a "college or other institution wholly controlled and managed and wholly or partly supported by the state or any subdivision thereof." Under the provisions of section 7796-1, supra, the person in question desiring prior service must first be a teacher as defined in the act, and in addition must have the status of a present teacher.

Section 7896-1 gives the same privileges and rights to teachers in the universities, colleges and institutions located in Ohio as are given to the teachers in the public schools, where the person in question "continues thereafter to be a teacher thereof until he, with the teaching staff of such school or college or institution, became a member of the retirement system." Under section 7896-22 the schools, colleges and

institutions located within the state of Ohio, have until September 1, 1921, to accept the requirements and obligations of the state teachers' retirement act, and if a school, college or other institution in the state, through its board of trustees or other managing body, accepted the conditions prior to the date in question, then the teaching personnel employed in such school, college or institution would be granted the rights and privileges of the teachers' retirement act the same as teachers in the public schools. Under the provisions of section 7896-1 G. C., however, the person in question now teaching in a school, college or university of this kind, in order to secure prior service credit, must have been a teacher prior to the first day of September, 1920.

However, the intention of the general assembly as regards these teachers in schools, colleges and institutions, which accept the provisions of the teachers' retirement act, is more clearly set forth, and is practically blanketed in the following language, which occurs in section 7896-22, to-wit:

"Service in such schools, colleges or other institutions (that is, located in the state of Ohio, and who later accept the provisions of the state teachers' retirement act) shall be then considered in every way the same as service in the public schools so far as the purposes of this act are concerned."

It must therefore be held, in construing these sections cited above, that service as a teacher in a privately endowed school, college or institution, located within the state of Ohio, and which later becomes a tax-supported institution under public control, should be allowed by the state teachers' retirement board in its computation of prior service as a teacher, even though such service as a teacher was rendered prior to the time that such school, college or university became a tax-supported institution and under public control.

Your second question reads as follows:

"May teachers in a college supported by state funds who became members of the retirement system under the provisions of section 7896-22 (c) G. C., purchase credit for similar service in a state-supported institution outside of Ohio on the same basis as public school teachers are permitted to purchase credit for service rendered in public schools of other states, as provided in section 7896-30 G. C.?"

Section 7896-30 G. C. reads in part as follows:

"Any present teacher \* \* \* in addition to service as a teacher as defined in this act, may claim credit for similar service as a teacher *in the public day schools of another state* of the United States or of any territory or possession of the United States and such service shall be treated by the retirement board and included in his prior service certificate as if it were service in the state of Ohio provided the teacher shall pay into the employers' accumulation fund an amount equal to the additional liability assumed by such fund on account of the crediting of such years of service rendered outside of the state, \* \* \* on account of such service outside of the state. \* \* \*"

It is entirely possible that doubt has arisen on this question because of the language of section 7896-1, where in the paragraph on "prior service" reference is made to "similar service in another state." But the same section provides that this shall not be counted unless "credit \* \* \* was procured by a present-teacher as

provided by this act." But section 7896-30 puts a further limitation upon the giving of prior service credit as a teacher to a person who performs such duties, even in a college or institution in another state, because of the words appearing in section 7896-30 G. C., providing that credit may be claimed "for similar service as a teacher," but such service must have been, under the express language of the statute itself, "in the public day schools of another state."

It will thus be seen that with these words of limitation appearing in section 7896-30, the claim of a teacher for prior service credit cannot cover similar service in another state unless such service as a teacher was rendered in the public day schools of another state.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*

1928.

APPROVAL, LEASES TO STATE LANDS; TWENTY-SEVEN, BUCKEYE LAKE; THREE, LAKE ST. MARYS; TWO, INDIAN LAKE, AND ONE PORTAGE LAKE, OHIO.

COLUMBUS, OHIO, March 21, 1921.

HON. JOHN I. MILLER, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—I have your letter of March 8, 1921, in which you enclose the following leases, in triplicate, for my approval:

	<i>Buckeye Lake.</i>	<i>Valuation.</i>
To The Del Fisher Boat Line Company, Buckeye Lake.....		\$5,000 00
Clara B. Hall, lease at Buckeye Lake.....		2,500 00
John Geach et al., lease at Buckeye Lake.....		500 00
The Allegro Fishing & Pleasure Club, lease at Buckeye Lake..		400 00
Mrs. Chas. A. Workman, lease at Buckeye Lake.....		400 00
The Magnolia Club, lease at Buckeye Lake.....		400 00
Mrs. Anna E. Ross, lease at Buckeye Lake.....		400 00
J. L. Love et al., lease at Buckeye Lake.....		400 00
C. M. & C. O. Boyer, lease at Buckeye Lake.....		400 00
David Wickliff, lease at Buckeye Lake.....		400 00
Frank J. Spooner and wife, lease at Buckeye Lake.....		400 00
Chas. F. Watkins, lease at Buckeye Lake.....		400 00
W. B. Willison et al., lease at Buckeye Lake.....		200 00
Welsh & Company, lease at Buckeye Lake.....		200 00
Dr. J. O. Lathem, lease at Buckeye Lake.....		200 00
E. E. Biete, lease at Buckeye Lake.....		200 00
Lena Shannon, lease at Buckeye Lake.....		200 00
Helen DeWitt, lease at Buckeye Lake.....		200 00
Frank E. Haubert, lease at Buckeye Lake.....		200 00
Chas. E. Smith, lease at Buckeye Lake.....		200 00
William H. Downs, lease at Buckeye Lake.....		200 00
Christ Albert, lease at Buckeye Lake.....		200 00
Jessie G. McCarley, lease at Buckeye Lake.....		200 00
Herman L. Harris, lease at Buckeye Lake.....		200 00
Louise C. Holland, lease at Buckeye Lake.....		200 00