

"When a board of education determines to build, repair, enlarge or furnish a schoolhouse or schoolhouses, or make any improvement or repair provided for in this chapter, the cost of which will exceed in city districts, three thousand dollars, and in other districts one thousand dollars, except in cases of urgent necessity, or for the security, and protection of school property, it must proceed as follows: * *"

The remaining portion of the statute, which is not quoted, sets forth the manner of advertising for bids, receiving the same and awarding the contract to the lowest responsible bidder.

The above statute clearly does not apply to all contracts that a board of education might enter into. By its terms it applies only to such contracts as a board of education may enter into when it determines "to build, repair, enlarge or furnish a schoolhouse or schoolhouses or make any improvement or repair provided for in this chapter."

There is no statutory requirement whereby boards of education are required to let contracts for transportation by competitive bidding and we must conclude therefore that it is not necessary to do so. See *Gosline v. Toledo Board of Education*, 11 O. C. C., N. S., 195.

I am therefore of the opinion, in specific answer to your question, that a board of education may in its discretion lawfully make a contract with a bus driver for a three year period, whereby the driver is to furnish his own bus to transport school children at a stipulated price, payable in monthly installments, and that the contract may be entered into without advertising and without letting the same at competitive bidding.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2885.

APPROVAL, LEASE TO RESERVOIR LAND AT LAKE ST. MARYS—DR.
O. J. FETTER.

COLUMBUS, OHIO, January 30, 1931.

HON. I. S. GUTHERY, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—You will find enclosed herewith a certain reservoir land lease, which you have submitted for my examination and approval.

By the enclosed lease, above referred to, which has been executed by the Conservation Commissioner, there is leased and demised to the respective lessee therein named, subject to the conditions and restrictions therein provided, and for a term of fifteen years, a certain parcel of land at Grand Lake or Lake St. Marys, which parcel of land is more particularly described in said lease.

The lease here in question, designated with respect to the name of the respective lessee therein and the appraised valuation of the parcel of land conveyed by said lease, is as follows:

Name	Valuation
Dr. O. J. Fetter	\$500.00

The above mentioned lease is executed under the authority of Section 471, General Code, as amended by the Conservation Act, passed by the 88th General Assembly.

Upon examination of the provisions of said lease, I find that the same is in conformity with the provisions of said section of the General Code, and with other statutory provisions relating to leases of this kind.

Said lease is accordingly hereby approved by me as to its legality and form, which approval is evidenced by my authorized signature on said lease and upon the duplicate and triplicate copies thereof.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2886.

SCHOOL PROPERTY—BOARD OF EDUCATION—POWER TO RENT OR LEASE NOT GIVEN BY STATUTE—KINDS OF PROPERTY BOARD MAY RENT TO TEMPORARY OCCUPANT.

SYLLABUS:

1. *In the absence of specific statutory authority therefor, boards of education do not possess the power to rent or lease school property held by them in their corporate capacity in trust for the use of the public schools.*

2. *When a board of education incidentally becomes possessed of buildings which are not needed for school purposes, and which can not immediately be advantageously disposed of, they may lawfully permit those buildings to be occupied for uses which are not strictly school purposes and may lawfully accept rental for such uses. Such occupancy, however, should be temporary, and until such time as the building may be sold in compliance with Section 4749, General Code.*

COLUMBUS, OHIO, January 30, 1931.

HON. C. G. L. YEARICK, *Prosecuting Attorney, Newark, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion which reads as follows:

“The Board of Education of one of the districts of this county desires to purchase land for the purpose of providing a playground adjacent to their school. Upon this property is a dwelling house and the board raises the question as to whether or not they could rent this property, to be used as a dwelling, to one of their teachers.”

It is well settled that boards of education being creatures of statute, have only such powers as are expressly granted to them by statute, together with such other powers as may be said to be implied as being necessary to carry out the express powers granted.

Boards of education are authorized by Section 4749, General Code, to sell property not needed for school purposes, but nowhere will there be found any authority to lease the same. A former Attorney General said with reference to this subject in