

interference with the religious freedom of any citizen of the state. I am of the opinion, therefore, that no resident of the state lawfully may set up his religious beliefs as an excuse for non-compliance with the compulsory school laws.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1154.

APPROVAL, BONDS OF CITY OF HAMILTON, BUTLER COUNTY—
\$30,400.00.

COLUMBUS, OHIO, November 6, 1929.

Industrial Commission of Ohio, Columbus, Ohio.

1155.

UNENCUMBERED BALANCES—INSTITUTIONAL FUND FOR WELFARE
DEPARTMENT IN SENATE BILL NO. 28—UNAVAILABLE AFTER
GENERAL APPROPRIATION BILL EFFECTIVE, IF NO APPROPRIATION
FOR THE PURPOSE IN LATTER BILL—EXCEPTION.

SYLLABUS:

The unencumbered balances as of December 31, 1928, in the institutional fund for the Department of Public Welfare as set forth in Senate Bill No. 28, are not available for allotment by the Controlling Board or any other use after the effective date of House Bill No. 510, if there were no appropriations for the purpose in the latter bill, excepting such funds as may properly be used to pay liabilities lawfully incurred under authority of such appropriation prior to the effective date of House Bill No. 510.

COLUMBUS, OHIO, November 6, 1929.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—Your communication reads:

“I respectfully request your written opinion upon the following question:

Senate Bill No. 28, Eighty-eighth General Assembly, contains the following appropriation ‘To be allotted to the Department of Public Welfare for Additions and Betterments * * * * subject to the approval of the Controlling Board, there is hereby appropriated the unencumbered balance in the Institutional Building Fund on December 31, 1928, together with any receipts which may be credited to said fund during the period of this act.’

Inasmuch as Section 13, H. B. 510, Eighty-eighth General Assembly specifically repeals the unencumbered balances in appropriations made in Senate Bill No. 28 and Amended Senate Bill No. 53, 'such repeal to be effective as to each appropriation thereby made, immediately upon the taking effect of any appropriation for the same purpose made in this Act,' and said Section 13 further provides 'From and after the effective date of this Act (H. B. 510) authority to expend all appropriations contained in the acts S. B. 28 and A. S. B. 53, named in this section for purposes for which no appropriation is made in this act shall cease.'

Question: Is the unencumbered balance as of December 31, 1928, in said Institutional Building Fund amounting to \$29,283.49 appropriated in S. B. 28, and not reappropriated in H. B. 510, available for allotment by the Controlling Board?"

Amended Senate Bill No. 28, to which you refer, contains the following language in reference to the allotment by the Controlling Board to the Department of Public Welfare for additions and betterments:

"To be allotted to the Department of Public Welfare for additions and betterments, including remodeling and extending existing buildings and constructing and equipping buildings at institutions under the control of the Department of Public Welfare, as determined by the Director of Public Welfare, subject to the approval of the Controlling Board, there is hereby appropriated the unencumbered balance in the institutional building fund on December 31, 1928, together with any receipts which may be credited to said fund during the period of this act."

Section 13 of House Bill No. 510, reads in full as follows:

"Section 1 of the act passed January 16, 1929, and approved January 22, 1929, entitled 'An act to make partial appropriations for the biennium beginning January 1, 1929, and ending December 31, 1930, and Section 1 of the act passed January 23, 1929, and approved January 29, 1929, entitled 'To make appropriation to the department of highways for constructing and reconstructing main market and intercounty highways of the state and abolishing railway grade crossings thereon, covering the six months period beginning January 1, 1929, and to declare an emergency,' is hereby repealed, such repeal to be effective, as to each appropriation thereby made, immediately upon the taking effect of any appropriation for the same purpose, made in this act.

From and after the effective date of this act authority to expend all appropriations contained in the acts named in this section for purposes for which no appropriation is made in this act shall cease; but the repeal hereby made shall be subject to the payment of all liabilities lawfully incurred under authority of such appropriations and shall not take effect so as to lapse the same into the funds from which they were appropriated until all such liabilities are paid and discharged."

Analyzing the provisions of the appropriation acts as above set forth, it must be concluded that House Bill No. 510 in Section 13 thereof, repealed the acts mentioned therein and of course refers to Senate Bill No. 28 and Senate Bill No. 53. The former bill which your question involves, was for the purpose of making partial appropriations for the biennium beginning January 1, 1929. Such repeal,

according to the language used in the section, was to be effective as to each appropriation to be made immediately upon the taking effect of any appropriation for the same purpose made in House Bill No. 510. Furthermore, in those cases in which there was no appropriation made for the same purpose in House Bill No. 510, after said act became effective, the authority to expend the appropriations contained in Senate Bill No. 28 and Amended Senate Bill No. 53, ceased to exist. It would therefore seem that the language of House Bill No. 510 is unambiguous and clearly states that the appropriations set forth in Senate Bill No. 28 are repealed. Of course provision was made for the taking care of encumbrances or obligations arising against such fund prior to its repeal.

In the case you mention it is understood that the Controlling Board had taken no action whatever toward the allotting of the funds about which you inquire, before the effective date of said House Bill No. 510. Said bill was filed in the office of the Secretary of State on April 26, 1929, and was to become effective ninety days thereafter in so far as items for additions and betterments are concerned, although, of course, said act went into immediate effect upon being approved by the Governor in so far as it appropriated items for the current expenses of the state and its institutions.

From a conference with your office, it is further understood that there are no specific appropriations in House Bill No. 510 to cover appropriations similar to the one to which you refer in Senate Bill No. 28. Therefore, if such is the situation, the authority to make any expenditures from said original appropriation terminated at the time said House Bill No. 510 became effective, except as to the payment of liabilities lawfully incurred under authority of such appropriation prior to the effective date of said House Bill No. 510.

In view of the foregoing, it is my opinion that the unencumbered balances as of December 31, 1928, in the institutional fund for the Department of Public Welfare as set forth in Senate Bill No. 28, are not available for allotment by the Controlling Board or any other use after the effective date of House Bill No. 510, if there were no appropriations for the purpose in the latter bill, excepting such funds as may properly be used to pay liabilities lawfully incurred under authority of such appropriation prior to the effective date of House Bill No. 510.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1156.

APPROVAL, BONDS OF PARMA VILLAGE, CUYAHOGA COUNTY—
\$18,000.00.

COLUMBUS, OHIO, November 7, 1929.

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