

3042.

APPROVAL, BONDS OF COVINGTON VILLAGE SCHOOL DISTRICT,
MIAMI COUNTY, OHIO—\$150,000.00.

COLUMBUS, OHIO, March 12, 1931.

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

3043.

STATE BOARD OF OPTOMETRY—ELECTION OF SECRETARY—RESI-
DENCE QUALIFICATIONS OF MEMBERS NEED NOT BE CONSID-
ERED.

SYLLABUS:

The State Board of Optometry, in the election of a secretary under the provisions of Section 1295-24, General Code, is not required to consider residence qualifications of its various members.

COLUMBUS, OHIO, March 12, 1931.

The Ohio State Board of Optometry, 22 East Gay Street, Columbus, Ohio.

GENTLEMEN:—Your letter of recent date is as follows:

“The Ohio State Board of Optometry is confronted with a controversy regarding whether or not the Ohio Optometry law makes provisions for the appointment of only a Columbus resident to become secretary of the board. One member of the board holds that the law provides that only a Columbus member of the board can hold position of secretary. On the other hand, other members of the board have elected as secretary of the board, a member who resides in another part of the state.

As president of the board, I should appreciate an early ruling from you in which I may be guided in settling this dispute. The next meeting of the board will be held March 14, and I sincerely hope that you can get this ruling to me prior to that time.”

Section 1295-24, General Code, relates to the organization of your Board. It is as follows:

“The State Board of Optometry shall organize by the election of a president and a secretary from its members, who shall hold their respective offices for one year.

It shall hold regular meetings for examination, in June and November of each year, and additional meetings at such times and places as it shall determine, not to exceed one every three months, but the November meeting shall be held in the city of Columbus,

A majority of the board shall constitute a quorum, but a less number may adjourn from time to time.

The board shall make rules and regulations governing the practice

of optometry and such other rules as may be necessary to carry out the provisions of this chapter (G. C. §§ 1295-21 to 1295-35); provided, however, that it shall require the concurrence of a majority of the members of the board to grant or to revoke a license."

Sections 1295-25 to 1295-26, General Code, provide for a bond of the secretary of the board and the compensation of all members thereof. Section 1295-27, General Code, provides among other things that the State Board of Optometry shall keep a record of its proceedings and that its records shall be open to public inspection. Section 1295-30, General Code, provides in part as follows:

"* * * * The board shall adopt a seal and certificate of suitable design and shall have an office at Columbus in this state, where examinations may be held and where all its permanent records shall be kept, which records shall be open to public inspection. It shall have the power to make requisition upon the proper state officials for office rooms and supplies, including stationery and furniture. All printing and binding necessary for the work of the said board shall be done by the state printer upon an order issued by said board through its president and secretary to the supervisor of public printing."

The contention that the secretary of the board must be a resident of Columbus is probably based upon the provision of Section 1295-30, *supra*, that the board shall have an office at Columbus, it being assumed that the duties of the secretary as such would require that he spend a portion of his time at such office. Even if the legislature had provided that the secretary of your board shall devote his entire time to this office at Columbus, in the absence of an express provision that the secretary must be a resident of Columbus, such a contention would not in my view be tenable. I find no provisions in the General Code requiring that the secretary of your board be a resident of any particular city or county of the state. Neither do I find any provision to the effect that even one member of your board shall be a resident of the city of Columbus. Section 1295-23, General Code, places no restrictions as to residence qualifications upon the governor in appointing members of your board except that such appointees be citizens of Ohio.

Specifically answering your inquiry, it is my opinion that the State Board of Optometry, in the election of a secretary under the provisions of Section 1295-24, General Code, is not required to consider residence qualifications of its various members.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3044.

DORMITORY—ALUMNI DESIRE TO GIVE SUCH BUILDING TO OHIO STATE UNIVERSITY—PROPOSED LAW DECLARING ACCEPTANCE BY STATE DEEMED CONSTITUTIONAL.

SYLLABUS:

1. *A statute should not receive a construction which makes it conflict with the Constitution, if a different construction is possible.*
2. *The construction of a statute depends upon its operation and effect, and not upon the form that it may be made to assume.*
3. *It is the duty of courts, in the interpretation of statutes, unless restrained*