

2. A driver of a motor vehicle registered as a publicly owned and operated motor vehicle to be used exclusively for a public purpose can not legally receive compensation for the use of said motor vehicle or for his personal services in driving said vehicle in transporting a basket ball team and other persons to an athletic contest.

3. It is unlawful for a bus driver to operate a motor vehicle registered as a publicly owned and operated vehicle over the public highways for any other than a public purpose. Motor vehicles so registered can not legally be operated over the public highways for any private purpose.

4. The operating on public highways of a motor vehicle registered as a publicly owned and operated motor vehicle for any other than a public purpose, is a violation of section 12620, General Code, and violations should be prosecuted under that section.

Respectfully,

JOHN W. BRICKER,
Attorney General.

898.

COUNTY BOARD OF EDUCATION—COUNTY EDUCATIONAL EQUALIZATION FUND DISTRIBUTED ON BASIS OF SURVEY MADE ON OR BEFORE FIRST SATURDAY IN APRIL—UNAUTHORIZED TO USE ANY OTHER PLAN OF DISTRIBUTION—WHEN PLAN NOT APPLICABLE.

SYLLABUS:

1. *The schedules adopted by a county board of education in pursuance of its survey made on or before the first Saturday in April of any year, as directed by Section 7600, General Code, form the basis for the distribution of the county educational equalization fund during the entire following school year.*

2. *The mere fact that the semi-annual settlements of a county auditor with the county treasurer, as directed by Section 2596, General Code, are not made at the precise time provided for by statute, on account of delinquencies, late closing of books, etc., does not justify a county board of education in using any other plan for the distribution of the county educational equalization fund than that based upon the schedules adopted by the county board of education, in pursuance of its survey of the county school district made on or before the first day of the previous April, as directed by Section 7600, General Code.*

3. *The schedules adopted by a county board of education in pursuance of its survey of the county school district made on or before the first day of April 1933, form the basis for the distribution of the county educational equalization levy to be made after the August, 1933, settlement of the county auditor with the county treasurer, but have no application whatever to the distribution following the February, 1933, settlement.*

COLUMBUS, OHIO, May 31, 1933.

HON. GLENN P. BRACY, *Prosecuting Attorney, Fremont, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion in answer to the following questions:

"1. Does not the plan upon which the County Board of Education determines to make the distribution of the 2.65 levy on or before the first Saturday in April apply to the entire following school year as a plan, or is a County Board of Education required to or even permitted to use another plan in the spring distribution from the one used in the fall?

2. In case the certification for settlement does not reach the county board due to delinquencies, late closing of books, etc., would a County Board be permitted when certification of amounts collected from the 2.65 M. Levy reaches them, to use another plan adopted immediately or shortly after said certification is made by the County Auditor, than the plan which they used in the October, 1932, distribution of the August settlement?

3. Does the plan of April, 1933, apply (a) to the February, 1933, distribution of the 2.65 collection? (b) To the fall, 1933, distribution of the August collection of 2.65 levy?"

The provisions of Section 7600, General Code, pertinent to your inquiry, are as follows:

"After each semi-annual settlement with the county treasurer each county auditor shall immediately apportion school funds for his county. Each city school district and each exempted village school district shall receive the full amount of the proceeds of the levy of two and sixty-five hundredths mills provided in section 7575, General Code, in the given school district. The proceeds of such levy upon property in the territory of the county outside of city and exempted village school districts shall be placed in the 'county board of education fund' and shall be known as a 'county educational equalization fund.'

On or before the first day of April of each year, the county board of education shall make a survey of the county school district to determine the number of teachers and other educational employes, and the number of transportation routes necessary to maintain the schools of the county school district. After a public hearing, the county board of education shall certify to the board of education of each school district of the county school district the basis upon which they are determined and the approximate amounts which the several districts may expect to receive for teachers' salaries, the salaries of other educational employes and for transportation.

The proceeds of the county educational equalization fund shall be apportioned by the county board of education to each school district and part of district within the county outside of city and exempted village school districts on the basis of the number of teachers and other educational employes employed therein, and the expense of transporting pupils as determined by the above educational survey, and the balance according to the ratio which the aggregate days of attendance of pupils in such districts, respectively, bears to the aggregate days of attendance of pupils in the entire county outside of exempted village and city school districts.

The annual distribution attributable to teachers and employes shall be according to the following schedule: Thirty-seven and one-half per

centum of the salary of each teacher or educational employe receiving a salary of not less than eight hundred dollars and a like percentage of the compensation paid to each person giving instruction in trade or technical schools, extension schools, night schools, summer schools and other special school activities, but not to exceed nine hundred dollars for any teacher or educational employe or other such person. Provided that the amount distributed to each district shall be upon the basis of the same salary schedule as determined by the county board of education, but in no case shall the amount paid per teacher or educational employe be less than three hundred dollars or more than nine hundred dollars.

The annual distribution attributed to expense of transportation of pupils shall be in accordance with a schedule to be determined by the county board of education."

The "semi-annual settlement with the county treasurer" spoken of in the first paragraph of the above statute, refers to the settlement provided for by Section 2596, General Code, which reads in part, as follows:

"On or before the fifteenth day of February and on or before the tenth day of August of each year, the county auditor shall attend at his office to make settlement with the treasurer of the county and ascertain the amount of real property taxes and assessments and public utility property taxes with which such treasurer is to stand charged."

From the terms of Section 7600, General Code, quoted above, it is manifest that the basis for the distribution of the county educational equalization fund during a school year is fixed as a result of the survey which the statute directs the county board of education to make on or before the first day of April of each year and the amounts distributed to the several districts which are attributable to teachers and employes and transportation expense as provided by the statute, is dependent upon the schedules adopted by the county board of education as a result of the survey mentioned. This survey is made but once a year and the schedules adopted as a result of the survey continue as the basis for the distribution of the county educational equalization survey until other schedules are adopted as a result of the survey made the next year. It is clearly the intention of the law that the survey made on or before the first day of April of each year shall control the distributions made thereafter, the first of which would be after the tenth day of the following August.

There is no authority for a county board of education to make this distribution in any other manner than in accordance with the schedules adopted by the county board of education as a result of its survey, and therefore there is no authority of law for a county board of education to change its plan of distribution during a school year. The mere fact that the settlements mentioned may not be made precisely at the time provided for by statute makes no difference. It is clear that the survey made by a county board of education on or before the first day of April of any year and the schedule adopted by the board as a result of that survey controls the manner of distributing the county educational equalization fund, which distribution is to be made following the succeeding August and February settlements.

I am therefore of the opinion, in specific answer to your questions:

1. The schedules adopted by a county board of education in pursuance of its survey made on or before the first Saturday in April of any year, as directed by Section 7600, General Code, form the basis for the distribution of the county educational equalization fund during the entire following school year.

2. The mere fact that the semi-annual settlements of a county auditor with the county treasurer, as directed by Section 2596, General Code, are not made at the precise time provided for by statute, on account of delinquencies, late closing of books, etc., does not justify a county board of education in using any plan for the distribution of the county educational equalization fund other than that based upon the schedules adopted by the county board of education, in pursuance of its survey of the county school district made on or before the first day of the previous April, as directed by Section 7600, General Code.

3. The schedules adopted by a county board of education in pursuance of its survey of the county school district made on or before the first day of April, 1933, form the basis for the distribution of the county educational equalization levy to be made after the August, 1933, settlement of the county auditor with the county treasurer, but have no application whatsoever to the distribution following the February, 1933, settlement.

Respectfully,
JOHN W. BRICKER,
Attorney General.

899.

STREET-LIGHTING—TOWNSHIPS AND BOARDS OF EDUCATION UN-AUTHORIZED TO EXPEND PUBLIC FUNDS THEREFOR FOR INCORPORATED VILLAGE.

SYLLABUS:

Townships and boards of education are unauthorized to expend public funds for the purpose of furnishing street lighting for an incorporated village.

COLUMBUS, OHIO, May 31, 1933.

HON. RAY W. DAVIS, *Prosecuting Attorney, Circleville, Ohio.*

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

“The Village of Darbyville, Muhlenberg Township, is duly incorporated under the laws of this State. This Village is furnished electricity for the purpose of lighting its streets by an Electric Light Corporation.

The Trustees of Muhlenberg Township have been paying the light bill for the Village of Darbyville. The Tax Budget Commission of this county failed to make any assessment at its last meeting for taxes for this municipality in order to pay these bills, consequently the Trustees of Muhlenberg Township have been paying them; the Board of Education of this township also paid part of this bill, but the Trustees paid the most of it.