

2040.

BOARD OF EDUCATION—RURAL AND VILLAGE—TEACHERS EMPLOYED ONLY AFTER BEING NOMINATED BY COUNTY OR ASSISTANT COUNTY SUPERINTENDENT OF SCHOOLS—EXCEPTION EXPLAINED.

**SYLLABUS:**

*By force of Section 7705, General Code, boards of education in rural and village school districts may employ the teachers of the schools of the district though such teachers are not first nominated by the county or assistant county superintendent of schools, providing such employment is done by a majority vote of the full membership of the board.*

COLUMBUS, OHIO, June 28, 1930.

HON. ALBERT T. STROUP, *Prosecuting Attorney, Van Wert, Ohio.*

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

“I will greatly appreciate your opinion on the following question:

Is it possible for a village or rural centralized school district to employ a teacher in their school that has not first been nominated by the county or assistant county superintendent of schools, and if so, how?

The second sentence of Section 7705 of the General Code of the State of Ohio seems to be ambiguous on this point.”

Section 7705, General Code, reads as follows:

“The board of education of each village, and rural school district shall employ the teachers of the public schools of the district, for a term not longer than three school years, to begin within four months of the date of appointment. The local board shall employ no teacher for any school unless such teacher is nominated therefor by the county or assistant county superintendent except by a majority vote of its full membership. In all high schools and consolidated schools one of the teachers shall be designated by the board as principal and shall be the administrative head of such school.”

The first sentence of the above statute clearly authorizes a board of education of a village or rural school district to employ the teachers for the district. The next sentence places a limitation on that power and contains an exception to that limitation prescribing the manner that teachers may be employed otherwise than in accordance with the limitation prescribed.

By force of the first sentence referred to, a board of education may employ teachers in the same manner they transact other business, that is, by a majority vote of a quorum present. To do so, however, it is necessary that the teacher be nominated by the county or assistant county superintendent as provided by the statute. If the teacher is not so nominated, authority, in accordance with the exception to the limitation stated, is extended to employ such teacher by a majority vote of the full membership of the board as contradistinguished from a mere majority vote of a quorum present.

In an opinion published in the Opinions of the Attorney General for 1917, at page 2440, with reference to the language used in the above statute, after noting the fact that teachers may be employed on the nomination of the county superintendent or assistant county superintendent, it is stated:

"If such district superintendent refuses to make such nomination, 'majority vote' as used in this instance means the majority of the full membership of the board of education and not merely the majority of those members who happen to be present at the particular meeting to which such agreement is sought to be entered into."

I am therefore of the opinion, in specific answer to your question, that it is possible for a village or rural centralized school district to employ a teacher for the schools of the district who has not first been nominated by the county or assistant county superintendent of schools. This may be done by a majority vote of the full membership of the board.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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2041.

APPROVAL, BONDS OF BIG ISLAND TOWNSHIP, MARION COUNTY,  
OHIO—\$3,600.00.

COLUMBUS, OHIO, June 28, 1930.

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

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2042.

BOND FUND—WHERE UNEXPENDED BALANCE TRANSFERRED—SUCH  
BALANCE EXCEEDING PRINCIPAL AND INTEREST PAYMENTS  
DUE ON BONDS FOR GIVEN YEAR—EXCESS MAY NOT BE APPLIED  
TO OTHER ISSUES—EXCEPTION.

**SYLLABUS:**

*The unexpended balance in a bond fund which is no longer needed for the purpose for which such fund was created shall be transferred to the specific sinking fund or bond retirement fund from which such bonds are payable. In the event the amount of such unexpended balance exceeds the amount required to meet the principal and interest payments due on such bonds during any given year, there is no authority to apply the excess toward the payment of interest and principal of other bond issues as long as any of the bonds which produced this excess remain outstanding.*

COLUMBUS, OHIO, June 28, 1930.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

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

"Section 5625-13, as amended in 113 O. L., page 673, provides in part that the unexpended balance in a bond fund shall be transferred to the sink-