

It will be observed that the above statute, 4740, General Code, provides that a superintendent in a so-called 4740 district shall be employed by the local board of education upon the nomination of the county superintendent, or the local board of education by a majority vote of its full membership may employ a superintendent not so nominated.

Your communication does not state whether or not the superintendent in question was employed by a majority vote of the full membership of the board or merely by a majority of a quorum present. If he was not employed by a majority vote of the full membership of the board, the fact that he had not been nominated by the county superintendent would cause his employment to be illegal. I take it, however, from your statement of facts, Number 1, submitted, that the employment was made in a lawful way, that is, by a majority of the full membership of the board and that when this was done, on March 26th, 1929, the employment was complete. If that be true, it need not later be ratified by the board, nor is it necessary that there be specific authorization to the president and clerk to sign the superintendent's contract, nor need the signature of the president and clerk, when later made, be ratified. If the employment is made and completed by the board, it is the duty of the president and clerk to sign the contract in their official capacity without any specific authorization therefor.

There is no definite provision of the statutes as to when a superintendent in a so-called 4740 district be employed. It is provided by Section 7705, that teachers must be employed within four months prior to the beginning of their term of service. There is some doubt whether this statute would apply to the employment of a superintendent for a 4740 district, but even if it does the employment having been made on March 28th, 1929, for the school year of 1929 and 1930, it was made within four months prior to July 1st, 1929, the time when the term of service would begin.

It may be noted that by the terms of House Bill No. 362, of the 88th General Assembly, Section 4740, General Code, was repealed, the repeal to become effective July 26th, 1929. This fact, however, would make no difference in the instant case if the contract with the superintendent had been consummated prior to the effective date of the repeal of the statute.

In my opinion, if the superintendent of Plain City district was employed on March 28th, 1929, as superintendent for the school year of 1929 and 1930 by a majority vote of the full membership of the board of education of Plain City district, his employment was legal even though he had not been nominated by the county superintendent, and he may retain his position as superintendent for the coming school year.

Respectfully,

GILBERT BETTMAN,
Attorney General.

469.

APPROPRIATION BILL NO. 513—FUND FOR ADJUSTING COMPENSATION TO WORLD WAR VETERANS—LEGAL METHOD OF DISBURSING SUCH FUND.

SYLLABUS:

The provisions of supplemental appropriation bill No. 513, passed by the 88th General Assembly, relating to the appropriation to the commissioners of the sinking

fund for the payment of claims for adjusted compensation to persons entitled thereto under the provisions of Section 2a of Article VIII of the State Constitution considered, and held that said provisions impose upon said sinking fund commissioners the duty of providing for the investigation of such claims before they allow and direct the payment of the claims by the adjutant general; and that said sinking fund commissioners may provide for the investigation of such claims by the adoption of regulations for the purpose under the authority granted to them by such constitutional provision.

COLUMBUS, OHIO, June 1, 1929.

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

DEAR SIR:—This is to acknowledge receipt of your recent communication, which reads as follows:

“I note in the Supplemental Appropriation Bill No. 513, 88th General Assembly, the following appropriation:
 ‘Commissioners of the Sinking Fund Maintenance—
 For the payment of Adjusted Compensation for service in the World War, to be paid out by the Adjutant General, under the direction of the Commissioners of the Sinking Fund, in the same manner and under the same restrictions as provided in Article VIII, Section 2a, of the Constitution of Ohio---- \$25,000 00
 Total Maintenance----- \$25,000 00

In order that pending claims for World War compensation may be acted upon, in accordance with the appropriation made, I respectfully ask that the legal method of disbursing said appropriation might receive your attention. In order to give effect to all the language in the appropriation I might suggest that the Sinking Fund Commissioners organize by selecting an Investigator of Claims who might also act as recording secretary of the Commissioners, keeping the proper accounts and making the proper records in said division; that the trustees meet monthly and pass upon the claims, certify the result of each claim to the Adjutant General’s Department, and thereupon said department to present a voucher to the Auditor of State, making payment of such claims as he may approve. Thereupon, a regular warrant on the General Revenue Fund to be issued, signed by the Auditor of State, payable to the proper claimants, as certified in the voucher by the Adjutant General.

This is about the only method that can be employed that will give effect to all the language of the appropriation, so far as I can see from a cursory examination of the language of the appropriation.”

It will be noted that the appropriation here in question is made to the commissioners of the sinking fund, who, under the provisions of Section 8 of Article VIII of the State Constitution, are the Auditor of State, Secretary of State and Attorney General. Under the provisions of said appropriation, payments of adjusted compensation out of the moneys appropriated are to be made by the Adjutant General under the direction of the commissioners of the sinking fund, in the same manner and under the same restrictions as are provided for in Article VIII, Section 2a, of the Constitution of Ohio, which constitutional provision relates to the payment to be made by the commissioners of the sinking fund out of the proceeds of the said bond issue therein provided for. Section 2a of Article VIII of the Constitution contains re-

strictions with respect to payments of adjusted compensation, both with respect to the persons entitled thereto and as to the amount of such payments. No requirements as to the manner of such payments are made in said constitutional provision above referred to other than the provision that the commissioners of the sinking fund should make such payments under such regulations as they may from time to time promulgate. However, the duties imposed upon the sinking fund commissioners with respect to the payment of claims for adjusted compensation require said sinking fund commissioners to make some provision by way of regulation or otherwise for the investigation of such claims before paying the same; and inasmuch as in the case here presented with respect to the appropriation in question the Adjutant General is authorized to make payments on claims for adjusted compensation of said appropriation, on the direction of the sinking fund commissioners, it is clear that a duty is imposed upon the sinking fund commissioners to make adequate and proper provision for the investigation of all claims before the same are certified to the Adjutant General for payment by him by vouchers covering the respective claims allowed.

If the procedure outlined in your communication is adopted by the sinking fund commissioners as a means of carrying out their duties preliminary to their allowance of claims for payment by the Adjutant General, no legal exception could, in my opinion, be taken to such procedure. However, I do not deem it any part of my duty as Attorney General to lay down any hard and fast rule or method as to how investigations should be made of claims for adjusted compensation under the appropriation therefor made in this act.

Under the provisions of Section 2a of Article 8 referred to in the appropriation act, the sinking fund commissioners are authorized to adopt any regulations having reasonable and proper relation to the duties imposed upon them with respect to the investigation of such claims, within the limits of constitutional and statutory provisions defining the persons entitled to such allowances and the amount of the same.

After such claims are allowed for payment by the sinking fund commissioners the same should be paid by the Adjutant General by the issue of vouchers for the payment of the claims which will then be paid by warrants of the Auditor of State on the general revenue fund within the limits of the appropriation.

Respectfully,

GILBERT BETTMAN,
Attorney General.

470.

MOTOR TRANSPORTATION ACT—VIOLATION OF—TAXICABS OPERATED OVER REGULAR ROUTE OUTSIDE MUNICIPALITY WITHOUT CERTIFICATE FROM PUBLIC UTILITIES COMMISSION.

SYLLABUS:

Taxicabs, regularly licensed to operate within the limits of a municipal corporation, which operate over a regular route without the limits of such municipality at periodic intervals, or intermittently, for the purpose of rendering a general motor bus service along such route, lose their identity as such outside of the municipality, and unless a Certificate of Public Convenience and Necessity is first obtained from the