

4084.

TUITION—NON-RESIDENT ATTENDING SCHOOL IN AN OUTSIDE DISTRICT UNDER AUTHORITY OF SECTION 7735 G. C.—PAYMENT UNAFFECTED BY REASON OF THE TWO DISTRICTS BEING LOCATED IN DIFFERENT COUNTIES.

*SYLLABUS:*

*The liability of a board of education for the payment of tuition where the residents of one school district who reside more than one and one-half miles from the nearest school in the district attend a nearer school in another district by authority of Section 7735 of the General Code, is not affected by the fact that the two districts in question lie in different counties.*

COLUMBUS, OHIO, February 23, 1932.

HON. JESSE K. BRUMBAUGH, *Prosecuting Attorney, Greenville, Ohio.*

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

“Certain school pupils, resident of Shelby County, Ohio, and of one of the school districts of Shelby County, and who reside more than one and one-half miles from the nearest school in the district in which they reside, are attending school at a nearer school which is located in a district in Darke County, Ohio.

My question is: Does the fact that such pupils reside in a different county affect the liability of the board of education in the school district where they reside to pay tuition to the school district attended by such pupils as provided for in Section 7735 of the General Code?”

Section 7735 of the General Code, reads as follows:

“When pupils live more than one and one-half miles from the school to which they are assigned in the district where they reside, they may attend a nearer school in the same district, or if there be none nearer therein, then the nearest school in another school district, in all grades below the high school. In such cases the board of education of the district in which they reside must pay the tuition of such pupils without an agreement to that effect. But a board of education shall not collect tuition for such attendance until after notice thereof has been given to the board of education of the district where the pupils reside. Nothing herein shall require the consent of the board of education of the district where the pupils reside, to such attendance.”

It will be observed upon a reading of the foregoing statute that no mention is made therein of county lines or of county school district lines. The administration of the public school system of the state is a state function. For convenience, the state is divided into school districts. These districts are laid out without any reference whatever to county lines. In fact, many districts extend into more than one county.

When a statute makes no provision with reference to the administration of the public school system as between two or more districts, I see no reason to conclude that the legislature meant that because the several districts in question

may lie in different counties, the terms of the statute would not apply.

I am therefore of the opinion in specific answer to your question, that the liability of a board of education for the payment of tuition where the residents of one school district who reside more than one and one-half miles from the nearest school in the district attend a nearer school in another district, by authority of Section 7735 of the General Code, is not affected by the fact that the two districts in question lie in different counties.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

4085.

APPROVAL, LEASE FOR RIGHT TO USE FOR BOATHOUSE, DOCK-LANDING, WALKWAY AND LAWN PURPOSES, LAND AT PORTAGE LAKES, SUMMIT COUNTY, OHIO—S. RALPH LASH.

COLUMBUS, OHIO, February 23, 1932.

HON. I. S. GUTHERY, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a recent communication from your department, over the signature of the chief of the bureau of inland lakes and parks, submitting for my examination and approval a certain reservoir land lease in triplicate, executed by the state of Ohio, through the conservation commissioner, to one S. Ralph Lash of Barberton, Ohio, by which instrument there is leased and demised to the lessee above named the right to use and occupy for boathouse, docklanding, walkway and lawn purposes that portion of the water front and state land in the rear thereof that lies immediately in front of Lot No. 36 of the Catalpa Grove Allotment No. 2, on the southerly shore of West Reservoir of the Portage Lakes, said property being located in Section 1, Franklin Township, Summit County, Ohio.

Upon examination of this lease, which is one for a stated term of fifteen years and which provides for an annual rental of six dollars, I find that the same has been properly executed by the state of Ohio, by the hand of the conservation commissioner, and by said S. Ralph Lash, the lessee above named.

The lease here in question is one executed by the conservation commissioner under the authority of section 471, General Code, as amended in the enactment of the conservation act. Upon examination of the terms and provisions of this lease and of the conditions and restrictions therein contained, I find same to be in conformity with said section of the General Code and with other statutory provisions relating to leases of this kind. Said lease is accordingly approved by me as to legality and form and the same, together with the duplicate and triplicate copies thereof, is herewith returned with my approval endorsed thereon.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*