

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.*

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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.

My direct inquiry therefore is, do the Trustees of Muhlenberg Township and the Board of Education have the authority under the law to pay these bills for a duly Incorporated Municipality?"

It is fundamental that public officers have only such powers as are expressly given them and those which may be necessarily implied from the express powers. *State. ex rel. Copeland, vs. State Medical Board, et al.*, 107 O. S. 20.

By authority of sections 3428, et seq., General Code, township trustees have authority under certain circumstances to furnish street lighting in unincorporated districts of the township. Section 3428 reads as follows:

"When the owners of more than one-half of the feet front of the lots and lands abutting on the streets and public ways of any unincorporated district in a township, sign a petition for artificial lighting of the streets and public ways in such district, during the night time or any part thereof, and file it with the clerk of the township, he shall thereupon give notice to the township trustees of the filing of such petition together with a copy thereof."

The above section as well as the following sections apply to an unincorporated district. They have no application to the present situation since the village in question is duly incorporated.

In an opinion found in Opinions of the Attorney General for 1928, Vol. III, page 1909, it was held as disclosed by the second branch of the syllabus:

"The trustees of a township are authorized to light streets and highways of the township, as such, only in the manner provided for by Sections 3428, et seq., General Code, and the provisions of Section 3440-1, General Code, have no application in such case."

It is one of the functions of a municipality to furnish the necessary street lighting. Indeed, the legislature has seen fit to give municipal corporations express power to contract with any company for street lighting. Section 3994, General Code, reads as follows:

"A municipal corporation may contract with any company for supplying, with electric light, natural or artificial gas, for the purpose of lighting or heating the streets, squares and other public places and buildings in the corporation limits."

The above discussion while pertaining to township trustees is equally applicable to boards of education. There is no statutory or implied authority for either a township or a board of education to furnish street lighting for a municipality. Article X, section 5, of the Ohio Constitution, reads as follows:

"No money shall be drawn from any county or township treasury, except by authority of law."

Therefore, it is my opinion in specific answer to your question that townships and boards of education are unauthorized to expend public funds for the purpose of furnishing street lighting for an incorporated village.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*