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SYLLABUS:

Under Section 3313.201, Revised Code, a board of education may purchase a liability insurance policy from a mutual insurance company whereby the premiums for said insurance may vary from year to year dependent upon the amount of claims which may be presented against said insurance company.

Columbus, Ohio, February 28, 1963

Hon. John D. Sears, Jr.
Prosecuting Attorney
Crawford County
Bucyrus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"I respectfully request your opinion as to whether or not a Board of Education can purchase a liability insurance policy from a mutual insurance company whereby the premiums for said insurance may vary from year to year determining on (sic) the amount of claims which may be presented against said insurance company."

Your question, in order to accord complete consideration to the problem, must be answered in two parts: (1) May a board of education purchase liability insurance from any source? (2) If the answer to part one is in the affirmative, may such liability insurance be purchased from a mutual insurance company?

Section 3313.201, Revised Code, deals with the question contained in part one as follows:

"The board of education of any school district may procure a policy or policies of insurance insuring officers, employees and pupils of the school district against liability on account of damage or injury to persons and property, including collision, medical payments and comprehensive insurance on vehicles operated under a course in drivers education certified by the state department of education and including liability on account of death or accident by wrongful act, occasioned by the operation of a motor vehicle, motor vehicles with auxiliary equipment, or all self-propelling equipment or trailers owned or operated by the school district. Whenever the board deems it necessary to

procure such insurance, it shall adopt a resolution setting forth the amount of insurance to be purchased, the necessity thereof, together with a statement of the estimated premium cost thereon, and upon adoption of said resolution the board may purchase said insurance. The premiums for such insurance shall be paid out of the general fund."

In confining this opinion strictly to the question you propound, it seems clear that a board of education is empowered under the terms of this statute to purchase liability insurance to indemnify individuals who may operate vehicles on behalf of such board of education. The statute is silent as to liability insurance on other kinds of property.

Part two of this problem is covered in the following constitutional provision. Article VIII, Section 6 of the Ohio Constitution provides as follows:

"No laws shall be passed authorizing any county, city, town or township, by vote of its citizens, or otherwise, to become a stockholder in any joint stock company, corporation, or association whatever; or to raise money for, or to loan its credit to, or in aid of, any such company, corporation, or association: provided, that nothing in this section shall prevent the insuring of public buildings or property in mutual insurance associations or companies. Laws may be passed providing for the regulation of all rates charged or to be charged by any insurance company, corporation or association organized under the laws of this state, or doing any insurance business in this state for profit. (As amended September 3, 1912.)"

The above quoted provision clearly states without qualification that insurance such as you describe may be purchased from mutual insurance companies. Inasmuch as the theory and structure of mutual insurance companies contemplate a variation in rates in accordance with less ratio experience, I do not believe this factor to be an obstacle to an insurance program planned by a board of education.

It is accordingly my opinion and you are so advised that under Section 3313.201, Revised Code, a board of education may purchase a liability insurance policy from a mutual insurance company whereby the premiums for said insurance may vary from year to

year dependent upon the amount of claims which may be presented against said insurance company.

Respectfully,
WILLIAM B. SAXBE
Attorney General
