

and lodging as may be determined by the State Department of Education, in lieu of providing transportation for such pupils, is of no effect. The obligation rests upon the local board either to provide transportation or board and lodging for such pupils, and the State Department of Education has nothing whatever to say about the matter, or make the manner of performing these duties a condition of extending state aid to the district. These obligations are of equal strength and binding force with the other obligations of the district.

2. If Malta Township School District, after taking care of its obligations, needs more funds to maintain its schools than would accrue to it from a three mill tax levy, the Director of Education may direct the county board of education to make such levy, even though the electors residing in the district have failed to return a majority for the same at the election. After such levy is made the Director of Education may extend to the district the advantages of the state educational equalization fund.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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1341.

APPROVAL, BONDS OF THE VILLAGE OF SOUTH EUCLID, CUYAHOGA COUNTY, OHIO—\$39,080.00.

COLUMBUS, OHIO, December 9, 1927.

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

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1342.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN MEIGS AND SUMMIT COUNTIES, OHIO.

COLUMBUS, OHIO, December 9, 1927.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works, Columbus, Ohio.*

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1343.

BOARD OF HEALTH—AUTHORITY TO REQUIRE CONNECTION OF CESSPOOLS TO SANITARY SEWERS—GENERAL AUTHORITY OF BOARD OF HEALTH, DISCUSSED.

**SYLLABUS:**

*Local boards of health may, in the exercise of a sound discretion, regulate the location, construction and drainage of cesspools and the like, where offensive and*

*dangerous substances and liquids are or may accumulate, and such boards may by resolution require the owners of lots or lands abutting on streets where sanitary sewers exist to connect the said cesspools and such places on said lots and lands with said sewers within a reasonable time after the order is made so to do.*

COLUMBUS, OHIO, December 9, 1927.

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

GENTLEMEN:—This will acknowledge receipt of your communication as follows:

“The pertinent part of Section 3812-1, G. C., reads:

‘The director of public service in cities and council in villages shall have authority to compel the making of sewer and water connections as hereinafter provided. Whenever said director in cities or council in villages deems it necessary in view of contemplated street paving or as a sanitary regulation that sewer or water connections or both, be constructed, said director in cities or council in villages shall cause written notice thereof to be given to the owner of each lot or parcel of land to which such connections are to be made, which notice shall state the number and character of connections required.’

Sections 4420 and 4421, G. C., authorize a city board of health under certain conditions to regulate the location of drains, cesspools, etc.

QUESTION: May a city board of health by resolution require all lots and lands abutting on streets in which sanitary sewers exist, and which lots and lands have cesspools and privy vaults located thereon, to be connected with such sanitary sewers within thirty days after the adoption of the resolution?”

Sections 4420 and 4421, General Code, read as follows:

Sec. 4420. “The board of health shall abate and remove all nuisances within its jurisdiction. It may by order therefor compel the owners, agents, assignees, occupants, or tenants of any lot, property, building or structure to abate and remove any nuisance therein, and prosecute them for neglect or refusal to obey such orders. Except in cities having a building department, or otherwise exercising the power to regulate the erection of buildings, the board of health may regulate the location, construction and repair of water-closets, privies, cesspools, sinks, plumbing and drains. In cities having such departments or exercising such power, the council by ordinance shall prescribe such rules and regulations as are approved by the board of health, and shall provide for their enforcement.”

Sec. 4421. “The board of health may also regulate the location, construction and repair of yards, pens and stables, and the use, emptying and cleaning thereof, and of water closets, privies, cesspools, sinks, plumbing, drains, or other places where offensive or dangerous substances or liquids are or may accumulate. When a building, erection, excavation, premises, business, pursuit, matter or thing, or the sewerage, drainage, plumbing, or ventilation thereof is, in the opinion of the board of health, in a condition dangerous to life or health, and when a building or structure is occupied or rented for living or business purposes and sanitary plumbing and sewerage are feasible and necessary, but neglected or refused, the board of health may

declare it a public nuisance and order it to be removed, abated, suspended, altered, or otherwise improved or purified by the owner, agent or other person having control thereof, or responsible for such condition, and may prosecute them for the refusal or neglect to obey such order. The board may also by its officers and employes, remove, abate, suspend, alter, or otherwise improve or purify them and certify the costs and expenses thereof to the county auditor, to be assessed against the property, and thereby made a lien upon it and collected as other taxes."

The question of sanitation, and the taking of such measures as are necessary to prevent the spread of communicable diseases are within the province of boards of health, and, as will be observed from a reading of Sections 4420 and 4421, *supra*, the powers of the board are very broad and definite. It will be observed that:

"When a building, erection, excavation, premises, business, pursuit, matter or thing, or the sewerage, drainage, plumbing, or ventilation thereof is, in the opinion of the board of health, in a condition dangerous to life or health \* \* \* and sanitary plumbing and sewerage are feasible and necessary, but neglected or refused, the board of health may declare it a public nuisance and order it to be removed, abated, suspended, *altered*, or otherwise improved or purified by the owner, agent or other person having control thereof, or responsible for such condition, and may prosecute them for the refusal or neglect to obey such order."

The authority given to *alter* or otherwise improve any premises, matter or thing, or the sewerage, drainage, plumbing, or ventilation thereof is, in my opinion, sufficiently broad to empower the board of health to require persons to connect cesspools and similar places on their premises with sanitary sewers in the streets upon which such premises abut.

The mere fact that authority is given to directors of service in cities or council in villages, when they deem it necessary as a sanitary regulation, that sewers or water connections be made, as is stated in Section 3812-1, General Code, which you quote in your inquiry, does not serve to lessen the powers of boards of health with reference to similar matters.

In an opinion of this department found in Opinions of the Attorney General for 1915, Vol. III, at page 2352, the Attorney General after referring to the provisions of the General Code setting forth the powers of boards of health, says:

"Without quoting the provisions of said sections in full, it is sufficient to say that they confer full and ample authority upon local boards of health to regulate plumbing and drains and all matters pertaining thereto. \* \* \*"

The authority of boards of health with respect to these matters is very definite, and the statutes with respect thereto are so clear as to leave no doubt that boards of health are empowered, in the interests of sanitation, to control the construction and drainage of cesspools and similar places where offensive and dangerous substances or liquids are or may accumulate.

The action of boards of health in this respect must of course not be arbitrary or unreasonable, and in making orders requiring persons to alter or otherwise improve cesspools and the like, a reasonable time under all the circumstances must be given to the owners to comply with such orders.

Specifically answering your question, therefore, I am of the opinion that a city board of health may by resolution require all lots and lands abutting on streets in which sanitary sewers exist, and which lots and lands have cesspools and similar places located thereon, to be connected with such sanitary sewers within a reasonable time after the adoption of the resolution.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

1344.

NEWSPAPER—PUBLICATION CIRCULATING ONLY AMONG BOND BUYERS NOT NEWSPAPER OF GENERAL CIRCULATION UNDER SECTION 2293-28, GENERAL CODE.

**SYLLABUS:**

*A publication having its circulation only among bond buyers is not a newspaper of general circulation within the meaning of Section 2293-28, General Code, which provides that notes or bonds of a subdivision of this state which are rejected by the trustees or commissioners of the sinking fund and which have maturity of more than two years, shall be sold to the highest bidder after being advertised for the time and in the manner therein provided in a newspaper having general circulation in the county where the notes or bonds are issued.*

COLUMBUS, OHIO, December 9, 1927.

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

GENTLEMEN :—This is to acknowledge receipt of your communication under date of November 21, 1927. This communication, including the question therein submitted for my approval, is as follows :

“Section 2293-28, 112 O. L. page 376, reads :

‘If said notes or bonds are rejected by such officers, then notes having a maturity of two years or less may be sold at private sale at not less than par and accrued interest, and all bonds and notes having a maturity of more than two years shall be sold to the highest bidder, after being advertised once a week for three consecutive weeks and on the same day of the week, the first advertisement being published at least twenty-one full days before the date of sale, in a newspaper having general circulation in the county where the bonds are issued. The advertisement shall state the total amount of bonds or notes and interest thereon to be sold, how long they are to run, the rate of interest to be paid thereon, the dates of payment of interest, the purpose of the issue and the day, hour and place in the county where they are to be sold. Such advertisement may also state that any one desiring to do so may present a bid or bids for such bonds based upon their bearing a different rate of interest than specified in the advertisement, provided, however, that where a fractional interest rate is bid such fraction shall be one-quarter of 1 per cent or multiples thereof. Such advertisement may also require every bidder to file with his bid a bond or certified check in a specified amount.’