

1598.

EXAMINATIONS—CONDUCTED BY COUNTY BOARD OF SCHOOL EXAMINERS—COUNTY GENERAL FUND PAYS CERTAIN EXPENSES THEREFOR.

SYLLABUS:

The expense incident to providing the suitable rooms in which to conduct examinations held by the county board of school examiners, and the expense of procuring fuel and light and the employment of janitors, should be borne by the general fund of the county on orders of the county auditor, which orders shall be issued upon the certificate of the president of the board of county school examiners and countersigned by the clerk thereof.

COLUMBUS, OHIO, September 21, 1933.

HON. RAY W. DAVIS, *Prosecuting Attorney, Circleville, Ohio.*

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

“Under Section 7835 of the General Code of Ohio, relating to the payment for fuel, light and janitorial services by the Board of County School Examiners, in conducting examinations, do the above expenses for such examinations under said section, come from the general fund of the county, or from the fund of the county board of education?”

Section 7835, General Code, reads as follows:

“Such board may contract for the use of suitable rooms in which to conduct examinations, may procure fuel and light, and employ janitors, to take charge of the rooms and keep them in order. Expenses so incurred, shall be paid out of the county treasury on orders of the county auditor, who shall issue them upon the certificate of the president of the board, countersigned by the clerk.”

The county board of education fund is created by Section 4744-3 of the General Code. This section provides in part, as follows:

“The county auditor when making his semi-annual apportionment of the school funds to the various village and rural school districts shall retain the amounts necessary to pay such portion of the salaries of the county and assistant county superintendents and for contingent expenses, as may be certified by the county board. Such amount shall be placed in a separate fund to be known as the ‘county board of education fund.’”

Section 7835 of the General Code, *supra*, does not in terms provide that the expenses provided for therein shall be borne by the county board of education or shall be regarded as a contingent expense of the county board of education, nor may such an intent on the part of the legislature be inferred in my opinion, from the fact that the county board of education appoints the members of the county board of school examiners and is empowered to remove for cause, and to fill vacancies, nor from the fact that the county superintendent of schools,

who is an appointee of the county board of education, is by virtue of his position, a member of the county board of school examiners and the clerk of said board. See Sections 7811, 7812, 7813, 7814 and 7815, General Code.

It is significant that Section 7834, General Code, which provides for the compensation of the members of the county board of school examiners and the expense of providing books, blanks and stationery required by said board, was enacted at the same time and in the same act of the legislature as Section 7835, General Code, was enacted (104 O. L. v. 107). Said Section 7834, General Code, provides that the compensation of the members of the county board of school examiners shall be paid "out of the county treasury on the order of the county auditor." The language there employed is practically the same as is that employed in Section 7835, General Code, with reference to the payment of the expenses of the county board of school examiners in providing for the use of suitable rooms in which to conduct examinations and the procuring of fuel and light and the employment of janitors. Said Section 7834, General Code, provides, however, with reference to the furnishing of books, blanks and stationery required by the board of examiners, that these expenses shall be borne by the county board of education.

Had the legislature intended that the compensation of the members of the county board of school examiners and the expense of providing suitable rooms for conducting examinations and procuring fuel and light and employing janitors was to be borne by the county board of education, it would have so provided in language similar to that which provided for the procuring of books, blanks and stationery required by the board of examiners. It seems clear that the legislature did not intend that the expense of providing suitable rooms for the county board of school examiners in which to conduct examinations, and the expense of procuring fuel and light and employing janitors, should be borne by the county board of education and paid from the county board of education fund but that it should be borne by the county and paid from county funds. The statute does not expressly state that it shall be paid from the general fund of the county. The general fund of a subdivision is stated in Section 5625-5, General Code, to be a general operating fund from which any current expenses of any kind may be paid. Inasmuch as no provision is made for a special fund in the county treasury for that part of the expenses of a county board of school examiners which is to be borne by the county, I am of the opinion that it should be paid from the general fund of the county.

Specifically answering your question I am of the opinion that the expense incident to providing the suitable rooms in which to conduct examinations held by the county board of school examiners, and the expenses of procuring fuel and light and the employment of janitors, should be borne by the general fund of the county on orders of the county auditor, which orders shall be issued upon the certificate of the president of the board of county school examiners and countersigned by the clerk thereof.

Respectfully,
JOHN W. BRICKER,
Attorney General.