

of the issuance by the county commissioners of refunding bonds, to accept refunding bonds in exchange for their original bonds in the manner provided by section 2293-29, General Code, in the event the refunding bonds after advertisement remain unsold at private sale for ten days, and if the bond resolution be actually adopted by the commissioners, I am of the view that the omission from the budget and levy for the year 1934, of the tax levy which would otherwise be necessary for the retirement of the original bonds maturing in 1934, would not be a violation of section 11 of article XII of the Constitution.

I am of the opinion therefore that when the holders of bonds of a county maturing in one year have consented in writing to have their bonds refunded under House Bill No. 217, passed by the 90th General Assembly, and also have agreed, in consideration of the issuance of refunding bonds by the county commissioners in the year previous to such maturity, to accept said refunding bonds in exchange for their original bonds in the manner provided by section 2293-29, General Code, in the event the refunding bonds after advertisement remain unsold at private sale for a period of ten days, and when the refunding bond resolution has been actually adopted making provision for the levy and collection of a tax annually sufficient to pay the interest on the refunding bonds and to provide for their final redemption at maturity, the tax levy which would have otherwise been necessary for the retirement of the bonds refunded may be omitted from the budget and tax levy for the year in which such refunded bonds mature.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

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1974.

MOTOR VEHICLE—MAY BE REGISTERED WITHOUT CHARGE WHEN OWNED OR EXCLUSIVELY USED BY BOARD OF EDUCATION FOR MORE THAN THIRTY CONSECUTIVE DAYS:

**SYLLABUS:**

*A motor vehicle owned by a board of education, or one which the board of education has the exclusive right to use for a period of greater than thirty consecutive days, and which is used for no other purpose than the transportation of school pupils, may be registered as provided by Section 6295, General Code, without charge of any kind. (Opinions of the Attorney General for 1929, Vol. III, page 1859 discussed and approved.)*

COLUMBUS, OHIO, December 9, 1933.

HON. PAUL A. BADEN, *Prosecuting Attorney, Hamilton, Ohio.*

DEAR SIR:—I am in receipt of your recent communication which reads as follows:

“Under date of December 4, 1929, your predecessor rendered an opinion to the effect that where a school board was entitled to the exclusive use of a motor vehicle for a period of greater than thirty (30) consecutive days, such school board will be considered the owner thereof and this motor vehicle may be registered without charge of any kind.

This opinion is found in Volume III, Opinions of the Attorney General, 1929, page 1859.

Will you please advise whether or not there have been any subsequent opinions rendered on this subject which would in any way effect or change the position of your office with regard to the legality of such an arrangement. A certain group of bus drivers in this County would like to take advantage of such a contract but will not do so unless it is legal."

Inasmuch as there have been numerous inquiries concerning this former opinion of this office and its applicability to various fact situations, I shall give a formal opinion in order to review and clarify the whole situation up to the present time.

The pertinent statutory provisions are identical with those in force and effect at the time of the rendition of the former opinion of this office, mentioned in your request, i. e. Opinions of the Attorney General for 1929, Vol. III, page 1859. These statutory provisions are as follows:

Sec. 6290.

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12. 'Owner' includes any person, firm or corporation other than a manufacturer or dealer having title to a motor vehicle or the exclusive right to the use thereof for a period of greater than thirty consecutive days.

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Sec. 6295.

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"Publicly owned and operated motor vehicles used exclusively for public purposes shall be registered as provided in this chapter, without charge of any kind; but this provision shall not be construed as exempting the operation of such vehicles from any other provision of this chapter and the penal law (s) relating thereto."

In the opinion rendered by my predecessor, reported in the Opinions of the Attorney General for 1929, Vol. III, page 1859, it was held as disclosed by the first three branches of the syllabus:

"1. A board of education lawfully may contract for the exclusive use of a school bus for a definite time without purchasing the bus and thus becoming the owner thereof.

2. For the purposes of registration of a motor vehicle as required by Sections 6290 et seq. of the General Code, a person who is entitled to the exclusive use of such vehicle for a period of greater than thirty consecutive days will be considered the owner thereof.

3. A motor vehicle owned by a board of education, *or one which the board of education has the exclusive right to use for a period of greater than thirty consecutive days*, and which is used for no other purpose than the transportation of school pupils may be registered as provided by Section 6295, General Code, without charge of any kind." (Italics the writer's)

This opinion was predicated on the fact that the busses were used exclusively for school purposes. It was also pointed out that all motor vehicles must

be "publicly owned", that "owner" as defined in paragraph 12 of Section 6290, General Code, includes a person or firm having the right to the *exclusive use* thereof for a period greater than thirty (30) consecutive days, and thus if a car is "publicly owned" in this sense of the term, and the car is publicly operated, it is entitled to registration without charge, I am of the same opinion as my predecessor and formally approve his opinion.

There have been no subsequent opinions of this office rendered on this subject which would in any way effect the legality of such an arrangement. I take this opportunity to clarify any doubt that you may have with respect to my later relevant opinions.

My opinion No. 157, rendered February 20, 1933, held as disclosed by the syllabus:

"1. Section 6295, General Code, does not authorize the department of motor vehicles to register any motor vehicles, without charge, unless the following elements concur: (a) They are publicly owned. (b) They are publicly operated. (c) They are used exclusively for public purposes.

2. A school bus owned and operated by a parochial school for its school purposes is not a publicly owned and operated motor vehicle used exclusively for public purposes, within the meaning of Section 6295, General Code."

I also call your attention to my former opinion No. 897, rendered May 31, 1933, which held as disclosed by the third and fourth branches of the syllabus:

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3. It is unlawful for a bus driver to operate a motor vehicle registered as a publicly owned and operated vehicle over the public highways for any other purpose than a public purpose. Motor vehicles so registered cannot legally be operated over the public highways for any private purpose.

4. The operating on public highways of a motor vehicle registered as a publicly owned and operated motor vehicle for any other than a public purpose, is a violation of Section 12620, General Code, and violations should be prosecuted under that section."

Those branches of the above quoted syllabi stating that such motor vehicles must be "publicly owned" may have raised some confusion, but inasmuch as "owner" in the motor vehicle laws, by virtue of paragraph 12 of Section 6290, General Code, includes any person, firm or corporation, other than a manufacturer or dealer having title to a motor vehicle or "the exclusive right to the use thereof for the period greater than thirty consecutive days", they are reconcilable with the opinion of my predecessor in 1929.

Specifically answering your inquiry, it is my opinion that, a motor vehicle owned by a board of education, *or one which the board of education has the exclusive right to use for a period of greater than thirty consecutive days*, and which is used for no other purpose than the transportation of school pupils, may be registered as provided by Section 6295, General Code, without charge of any kind.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*