

United States Veterans' Bureau or its successor requires a public record for use in deciding the eligibility of any person to participate in moneys payable by the United States through said Veterans' Bureau, any officer charged with the custody of such public record must furnish a certified copy of same without charge to the applicant for the moneys or to any person acting for him or to a representative of the Veterans' Bureau.

This office had occasion to construe Section 11037-14, General Code, *supra*, in Opinion 2387, rendered September 29, 1930, and appearing in Opinions of the Attorney General for 1930, Volume 2, page 1516. The syllabus of that opinion held:

"Section 11037-14 of the General Code not only applies to veterans or their minor children for whom application is made for the appointment of a guardian but applies to all veterans who are entitled to participate in any moneys payable by the United States made available by the United States Veterans' Bureau when such bureau requires a public record of the veterans to be used in determining the eligibility of such persons to participate in benefits made available by the United States Veterans' Bureau."

It may be noted from the above opinion that Section 11037-14, General Code, applies to all World War veterans, regardless of whether guardians have been appointed for them or not. For your attention and consideration, I am enclosing a copy of the above opinion.

It is thus apparent that when the provisions of Section 11037-14, General Code, are construed with Sections 2770, 2772 and 2779, General Code, the county recorder may not charge for a certified copy of a soldier's discharge whenever such discharge is requested by a World War soldier applicant or by any person on his behalf, or by a representative of the United States Veterans' Bureau, to be used by said United States Veterans' Bureau for the determination of the eligibility of a soldier to participate in moneys payable by the United States through such Bureau. At all other times the county recorder must charge a fee for a certified copy of a soldier's discharge.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

3358.

APPROVAL, BONDS OF CITY OF PORTSMOUTH, SCIOTO COUNTY,  
OHIO—\$100,000.00.

COLUMBUS, OHIO, June 25, 1931.

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

3359.

TRANSFER OF SCHOOL TERRITORY—BY COUNTY BOARD OF  
EDUCATION—REMONSTRANCE FILED—LENGTH OF TIME DUR-  
ING WHICH SIGNERS MAY LEGALLY WITHDRAW NAMES.

SYLLABUS:

*Under Section 4692, General Code, signers to a remonstrance against the action*

*of a county board of education in transferring territory may withdraw their names therefrom before and up to the end of the thirty day period allowed for the filing of the remonstrance.*

COLUMBUS, OHIO, June 25, 1931.

HON. ERNEST M. BOTKIN, *Prosecuting Attorney, Lima, Ohio.*

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

“The County Board of Education, acting under the provisions of Section 4692 of the General Code, transferred a part of a school district of the county school district to an adjoining school district. Within thirty days after the filing of the map provided for in said Section 4692, General Code, a majority of the qualified electors residing in the territory to be transferred, filed with the County Board a written remonstrance against such proposed transfer. Thereafter, and within said thirty days a sufficient number of the electors signing said written remonstrance to reduce the number thereon to less than fifty per cent of the electors residing within said territory, filed written withdrawals of their names from said remonstrance. A map of such territory was filed with the County Auditor and notice posted as provided by said section.

Under the above statement of facts, I desire your opinion on the question of whether the territory proposed to be transferred is now transferred to the adjoining district.”

Section 4692, General Code, authorizes a county board of education to transfer by resolution, a part or all of a village or rural school district within the county school district to an adjoining district or districts of the county school district. It provides inter alia:

“\* \* Such transfer shall not take effect until a map is filed with the auditor of the county in which the transferred territory is situated, showing the boundaries of the territory transferred, and a notice of such proposed transfer has been posted in three conspicuous places in the district or districts proposed to be transferred, or printed in a paper of general circulation in said county, for ten days; nor shall such transfer take effect if a majority of the qualified electors residing in the territory to be transferred, shall, within thirty days after the filing of such map, file with the county board of education a written remonstrance against such proposed transfer. \* \* \*”

The question presented by your inquiry is, did the electors, in the case mentioned, have the right to withdraw their names from the remonstrance within the thirty day period allowed by Section 4692, General Code, for the filing of the remonstrance?

This question may be answered, in my opinion, by reference to the case of *Neiswander et al. v. Brickner et al.*, 116 O. S. 249, where it is held as stated in the first branch of the syllabus thereof:

“Under Section 4736, General Code, signers to a remonstrance may withdraw their names before and up to the end of the 30-day period allowed for the filing of the remonstrance.”

In that case it appeared that the county board of education of Putnam county, acting by authority of Section 4736, General Code, had passed a resolution creating the Ottoville Village School District from territory which had theretofore been composed of school districts and parts of school districts in Putnam County. Thereafter, there was filed in the office of the Putnam County Board of Education a remonstrance against such action of the board, containing the names of a majority of the electors of the territory affected by the county board's action. Later, and within thirty days from the date of the passage of the resolution of the county board creating the said school district, a number of the electors whose names appeared in the remonstrance in question, filed with the county board of education a written request that their respective names be withdrawn from the remonstrance. If the persons so requesting were permitted to withdraw their names from the remonstrance, the number left would be less than a majority of the qualified electors residing in the territory affected and thus the remonstrance would be rendered ineffectual. The court held that the signers to the remonstrance had the right to withdraw their names before and up to the end of the thirty day period allowed for the filing of the remonstrance. The pertinent portion of Section 4736, General Code, reads as follows:

"The county board of education may create a school district from one or more school districts or parts thereof, and in so doing shall make an equitable division of the funds or indebtedness between the newly created district and any districts from which any portion of such newly created district is taken. Such action of the county board of education shall not take effect if a majority of the qualified electors residing in the territory affected by such order shall within thirty days from the time such action is taken file with the county board of education a written remonstrance against it."

By comparison of the terms of Section 4736, General Code, it will be noted that the provisions of the two statutes with reference to the filing of a remonstrance and the effect thereof are practically the same. We must therefore conclude that the holding of the court in the Neiswander case is dispositive of the question presented by you.

I am therefore of the opinion that under the facts presented the remonstrance which had been filed against the action of the county board of education in transferring the territory in question was rendered ineffectual by the filing of written withdrawals from said remonstrance within the thirty days allowed by the statute for the filing of the remonstrance.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

3360.

GENERAL CORPORATION ACT—NO AUTHORITY TO INCLUDE IN ARTICLES, A CLAUSE PROVIDING THAT AT FUTURE DATE AUTHORIZED SHARES OF GIVEN CLASS SHALL BE INCREASED AND THOSE OF ANOTHER CLASS PROPORTIONATELY REDUCED OR ABOLISHED WITHOUT FILING OF AMENDMENT TO SAID ARTICLES IN SECRETARY OF STATE'S OFFICE.

*SYLLABUS:*

*The General Corporation Act does not authorize the inclusion in the articles*