

tention is invited to the decision of the Court in the case of Board of Education vs. Bowland 3 O. N. P. (N. S.) 122, wherein the Court says:

“School property is not rendered liable to assessment for a street improvement by reason of the fact that with knowledge that the property was not liable to assessment the board petitioned for the improvement.

But where the lien of an assessment for a street improvement has already attached, it will not be defeated by the subsequent purchase of the property by a school board.”

See also Board of Education vs. Volk 72 O.S. 469.

The Section of the Code, which exempts public school houses from general taxation is Section 5349 G. C., which reads in part as follows:

“Public school houses and houses used exclusively for public worship, the books and furniture therein and the ground attached to such buildings necessary for the proper occupancy, use and enjoyment thereof and not leased or otherwise used with a view to profit, public colleges and academies and all buildings connected therewith, and all lands connected with public institutions of learning, not used with a view to profit, shall be exempt from taxation. * * * * .”

Having before us then the language cited in Section 3842-1 of the boulevard lighting act and Section 3837 G. C. (in the Municipal Code) and Section 4759 G. C., and the decisions of the courts and prior opinions of this department on matters of a largely similar nature, you are advised that it is the opinion of this department that a board of education cannot be assessed for boulevard lighting by special assessment on abutting school property.

Respectfully,
JOHN G. PRICE,
Attorney-General.

3843.

SCHOOLS—WHERE DIRECTOR OF SCHOOLS CHOSEN—BIDDING REQUIRED FOR THINGS MENTIONED IN SECTION 7623 G. C.—NOT SUPPLIES AND EQUIPMENT.

In any school district where a director of schools has been chosen public bidding is required for those things set forth in section 7629 G. C. but not for the supplies and equipment referred to in section 7695 G. C.

COLUMBUS, OHIO, December 30, 1922.

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

GENTLEMEN:—Acknowledgment is made of the receipt of your request for the opinion of this department upon the following:

"Under section 7623 G. C., when a city board of education determines to build, repair, enlarge or furnish a school house or school houses or make any improvement or repair, provided for in chapter 2, when the cost will exceed \$1500.00, it must be advertised for a period of four weeks. Under section 7695 G. C., the Director of Schools is authorized to advertise for bids and purchase all supplies, authorized by the board.

Question 1. Does section 7695 G. C. make it necessary that the Director of schools advertise for bids in connection with the purchase of supplies and equipment, authorized by the board?

Question 2. If answer to question 1 is in the affirmative, does the \$1500.00 limit of Section 7623 apply?

Section 7623, the section of the school laws bearing upon the directions for bidding and for letting contracts, reads in part as follows:

"When a board of education determines to build, repair, enlarge or furnish a schoolhouse or schoolhouses, or make any improvement or repair provided for in this chapter (Chapter 2, Title V), the cost of which will exceed in the city districts, fifteen hundred dollars, and in other districts five hundred dollars, except in cases of urgent necessity, or for the security or protection of school property, it must proceed as follows: * * *

Following the above quotation from 7623 G. C. appear paragraphs Nos. 1 to 10 inclusive (too long to quote here), bearing upon the details that are to be carried out in bidding before a board of education.

It will be noted that in section 7623 G. C., an old law coming out of the revised statutes (3988), and last amended in 97 O. L., 356, this bidding is required when the board of education determines "to build, repair, enlarge or *furnish a school house or * * * make any improvement or repair* provided for in this chapter." Thus it is quite clear that any activity which would fall within the above words in 7623, the cost of the same would have to be ascertained by securing competitive bids. Another section of the school laws which refers to advertising for bids is section 7695 G. C. (107 O. L., 46), but this section applies to the "director of schools" and therefore would not operate in a school district unless such district had employed a director of schools. Thus section 7695 G. C. says:

"He (director of schools) shall have the care and custody of all property of the school districts, real and personal, except moneys, oversee the construction of buildings, in the process of erection, and the repairs thereof, and *advertise for bids and purchase all supplies and equipment* authorized by the board."

Section 7695 G. C. says that the director of schools shall "advertise for bids and purchase all supplies and equipment authorized by the board." This means that the director shall advertise for bids where the same is required by Section 7623 on the things referred to in that section and that he shall also purchase *supplies and equipment* authorized by the board.

Your attention is invited to the fact that this matter has been passed upon by the courts in the case of Gosline vs. Toledo Board of Education (1908) as reported

in 11 Ohio Circuit Court Reports N. S. 195. The court in passing upon the question as to when the director of schools of the Toledo school district was required to secure bids held that the director of schools, where one is chosen, is not required to advertise for bids for supplies since the law as to supplies and equipment (codified as 7695 G. C.), did not provide when or how he should advertise for bids. The court further said:

"2. A broad discretion is reposed in boards of education regarding the purchase of necessary supplies for schools * * * * and where it appears that the board has complied with the requirement that it act in good faith for the best good of the schools according to the right and understanding of its members, acceptance of other than the cheapest coal will not be enjoined.

3. A director of schools is not required, * * * * to go to the expense of advertising for bids for every trivial thing in the way of supplies which may have been ordered by the board to be purchased."

It will be noted that Section 7623 G. C. speaks of the furnishing of a school-house or the improvement or repair of the same and no mention is made in that section of "supplies and equipment" referred to in Section 7695 G. C.

In reply to your first question you are advised that, based upon the decision of the Circuit Court in the Gosline vs. Toledo Board of Education case cited, it is the opinion of this department that in any school district where a director of schools has been chosen public bidding is required for those things set forth in Section 7623 G. C., but not for the supplies and equipment referred to in Section 7695 G. C.

This answer to your first question renders unnecessary any answer to your second question.

Respectfully,

JOHN G. PRICE,

Attorney-General.

3844.

MUNICIPAL CORPORATIONS—WHERE COUNCIL DETERMINES NUMBER AND COMPENSATION OF OFFICERS AND EMPLOYES OF CITY—MAY PROVIDE EIGHT HOURS A DAY STANDARD FOR DAY'S WORK—WHEN OFFICERS AND EMPLOYES OF POLICE DEPARTMENT MAY RECEIVE EXTRA COMPENSATION FOR OVERTIME SERVICES.

1. *Under the provisions of section 4214 of the General Code, council is authorized to determine the number and fix the compensation of officers and employes of the city government, and may in the fixing of the salary or compensation of such employes provide that eight hours a day be deemed a standard for a day's work.*

2. *Officers and employes of a police department of a municipality,, who are paid a definite and certain salary per month, fixed by ordinance of council may not receive extra compensation in addition to said salary for overtime services per-*