

to the minimum salary spoken of in Section 4744-1, General Code, or may lawfully appoint someone else to the position.

Summarizing, I am of the opinion:

1. A county superintendent of schools is a public officer, the salary for whom when fixed, may not be changed during his term.

2. The duty of a county board of education to fix the salary of its county superintendent of schools who has been duly appointed to the office, is expressly enjoined by statute, and until such salary is fixed and the proffered appointment accepted, the appointment is not complete and no contract exists between the parties.

3. Where a county board of education makes an appointment of a county superintendent of schools for a period of three years, and fixes the salary for said appointee for one year only, and reserves the right to fix the salary for the remaining years at some later date, the acceptance of the appointment so made, constitutes a valid appointment for one year only. (Opinions of the Attorney General, 1922, page 430, overruled.)

Respectfully,

JOHN W. BRICKER,  
*Attorney General*

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4446.

MUNICIPAL CORPORATION—UNAUTHORIZED TO EXPEND FUNDS FOR MEMBERSHIP IN ASSOCIATION OF MUNICIPALITIES.

*SYLLABUS:*

*A municipal corporation is without authority to expend public funds for membership dues or fees in an association of municipalities or to appropriate funds to pay for services rendered, or information furnished on municipal affairs by such association.*

COLUMBUS, OHIO, July 22, 1935.

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

GENTLEMEN:—Your recent request for my opinion reads as follows:

“Article XVIII, Section 3, grants all powers of local self-government to municipalities. Do municipalities have the power to spend municipal funds for the purpose of obtaining information on municipal problems through the services of an association of municipi-

palities? The question of whether or not this is a power of local self-government does not appear to be decided and your opinion is requested. Municipal funds are legally expended for various informational services such as tax services, legislative services, court reporting services, and reports. May such services be purchased from municipal associations?

Expenses of municipalities for the purpose of obtaining information on problems of municipal government through their own association, might involve (1) membership dues; (2) purchase of specific services and reports; (3) traveling expenses of municipal officials to conferences of such association on municipal problems."

The question which you have presented has been previously considered by this office, and a review of former opinions convinces me that the conclusions reached therein are dispositive of your inquiry. The question of the validity of a charter provision authorizing such an expenditure is not presented by your inquiry and I express no opinion thereon.

A similar question was presented to the Supreme Court of Ohio in *State vs. Semple*, 112 O. S. 559. The question arose as to the authority of the council of the City of Cleveland to disburse funds of the municipality to contribute to the support and maintenance of a so-called "conference of Ohio municipalities." The city council passed a so-called emergency resolution to cause the sum of \$100.00 to be paid to one George Hoffman, secretary of the Conference of Ohio Municipalities, as dues of the City of Cleveland for membership in that organization for the remainder of the year 1924. The clerk of the council caused a voucher to be drawn upon the Department of Finance, in accordance with and pursuant to said resolution, in favor of George Hoffman, as secretary of the Conference of Ohio Municipalities, which voucher the Director of Finance refused to honor, upon the ground that it would be an unlawful expenditure of money. Whereupon a writ of mandamus was sought to compel the Director of Finance to honor the voucher and disburse the money. The Supreme Court denied the writ and stated in the per curiam opinion:

"It does not follow, from the broad powers of local self-government conferred by Article XVIII of the Constitution of the state, that a municipal council may expend public funds indiscriminately and for any purpose it may desire. The misapplication or misuse of public funds may still be enjoined, and certainly a proposed expenditure, which would amount to such misapplication or misuse, even though directed by a resolution of council, would not be required by a writ of mandamus. Without considering the validity of such a provision, it must be conceded that there is no express provision

of the charter of the city of Cleveland relative to the contribution from the treasury of the city to a fund made up of contributions of various municipalities for the purposes enumerated in the constitution of the 'conference of Ohio municipalities' and no general provision from which authority may be inferred to expend the funds of the city to assist in creating and maintaining an organization with offices and officers entirely separate from those of the city; selected by representatives of various municipalities of the state, with salaries and expenses also fixed by them."

On February 21, 1929, in response to an inquiry from your Bureau, concerning the authority of a charter city to expend funds for services and periodicals of an organization known as a Conference of Ohio Municipalities, in the absence of a specific charter provision, the then Attorney General held that the authority did not exist and consequently such an expenditure would be illegal.

The "Conference of Ohio Municipalities" sought to sell memberships and collect annual dues until the Supreme Court rendered its decision in the Semple case, *supra*. Thereafter, the "Conference of Ohio Municipalities" abandoned its efforts to sell memberships and collect dues therefor. However, it endeavored to enter into contract with a municipality whereby the municipality agreed to pay certain stipulated sums for specified services which included a publication, reports, a bureau for the collection of information and other services.

The Attorney General in the 1929 opinion (reported in *Opinions of the Attorney General for 1929*, Vol. 1, page 158) observed the changed method of procedure adopted by the "Conference of Ohio Municipalities." He stated, however, that very little distinction, if any, could be drawn between the two enterprises, and concluded that the Semple case, *supra*, was applicable.

In a subsequent opinion, reported in *Opinions of the Attorney General for 1930*, Vol. 1, page 1453, the same Attorney General reached a similar conclusion. The question was whether the council of a charter city could appropriate funds for the payment of fees for subscription to the Bureau of Public Personnel Administration, Washington, D. C.; fee for membership in the Civic Service Assembly of the United States and Canada; and sustaining membership dues in the National Municipal League. The opinion cited the Semple case, *supra*, and the 1929 opinion, *supra*, and concluded that they were controlling because the said institutions were very analogous, both in organization and purpose, to the "Conference of Ohio Municipalities."

I am unable to find a logical reason for departing from the conclusions reached in the Semple case and the 1929, 1930 opinions, *supra*, and accordingly am of the opinion, in specific answer to your inquiry, that a municipal corporation is unauthorized to expend public funds for membership dues or fees in an

association of municipalities or to appropriate funds to pay for services rendered, or information furnished on municipal affairs by such association.

Respectfully,

JOHN W. BRICKER,  
*Attorney General*

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4447.

CHAUFFEUR—SCHOOL BUS DRIVER MUST BE REGISTERED  
AS CHAUFFEUR—PHYSICAL EXAMINATION REQUIRED.

*SYLLABUS:*

1. *A person employed by a board of education to drive a motor vehicle for the transportation of school children to and from school must be duly registered as a chauffeur, in accordance with Section 6302, General Code.*
2. *Applicants for the position of driver of a motorized school conveyance for the transportation of public school children need take but one physical examination by an examining physician, as provided by Section 7731-3, General Code, for the determination of his physical fitness for the position.*

COLUMBUS, OHIO, July 22, 1935.

HON. SAM L. SUMMERS, *Prosecuting Attorney, Ravenna, Ohio.*

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

“Under House Bill 232 of the 91st General Assembly, regular session, in which Section 7731-3, relative to the qualifications of school bus drivers was amended, established a physical examination, as follows:

“The local board of education or the superintendent, as the case may be, shall provide for a physical examination and each driver is to be examined for his physical fitness for the employment, said board or superintendent shall choose the examining physician and the said examination shall be the only one necessary for the driver to pass.”

The question is, whether or not Section 7731-3 as now amended, relieves the drivers of school busses from applying for a chauffeur’s certificate under Section 6302?”

Section 7731-3, General Code, as enacted in House Bill No. 232, of the 91st General Assembly, a portion of which statute is quoted in your letter, reads as follows: