

Finding said contract and bond in proper legal form, I have this day noted my approval thereon, and return same to you herewith, together with all other data submitted to me in this connection.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

2804.

SCHOOLS—WHERE RURAL OR VILLAGE SCHOOL DISTRICT MAKES AGREEMENT WITH PARENT FOR TRANSPORTATION OF CHILD AND DISTRICT OWNS NO VEHICLES, ONLY ONE-THIRD THE AMOUNT PAID FOR TRANSPORTING SUCH PUPIL SHALL CONSTITUTE "PERSONAL SERVICE EXPENSE" AS DEFINED IN SECTION 7787 G. C.—IN ANNUAL DISTRIBUTION OF SCHOOL FUNDS BY COUNTY AUDITOR EXPENSE THAT MAY BE ATTRIBUTED TO TRANSPORTATION OF PUPILS IN VILLAGE OR RURAL SCHOOL DISTRICT SHALL BE FIFTY PER CENT OF "PERSONAL SERVICE EXPENSE" INCURRED IN SUCH TRANSPORTATION.

1. *Where a rural school district or a village school district, acting under section 7731-4 G. C., makes an agreement with a parent or other person in charge of a child for the transportation of such child to school, and the district owns neither the vehicle nor the means of locomotion, only one-third the amount paid for transporting such pupils shall constitute the "personal service expense" as defined in section 7787 G. C.*

2. *In the annual distribution of school funds by the county auditor after each semi-annual settlement with the county treasurer, the expense that may be attributed to the transportation of pupils in a village district or a rural school district shall be fifty per cent of the "personal service expense" incurred in such transportation, as defined in section 7787 G. C.*

COLUMBUS, OHIO, January 20, 1922.

HON. KARL TIMMERMEISTER, *Prosecuting Attorney, Wapakoneta, Ohio.*

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

"Can the local board, acting under section 7731-4, draw fifty per cent of the personal service expense in transportation from the county, under section 7600?"

It is understood that your question is upon those cases where a board of education, exercising its option of providing transportation in one form or another for school pupils, exercise such option in the manner set forth in the closing part of the first paragraph of section 7731-4, as amended in 109 O. L., p. 290, and reading as follows:

"If a local board deems the transportation of certain children to school by school conveyance impracticable and is unable to secure what is deemed a reasonable offer for the transportation of such children the local board shall so report to the county board of education. If the county board of education deems such transportation by school conveyance practicable or the offers reasonable they shall so inform the local board and transportation

shall be provided by such local board. If, however, the county board of education agrees with the view of the local board it shall be deemed compliance with the provision of section 7730 and 7731, General Code, by such local board if such board agrees to pay the parent or other person in charge of the child or children for the transportation of such child or children to school the following amounts for each day of actual transportation. * * *

Where a board of education had an arrangement with a parent or other person in charge of a child or children for the transportation of such child or children, under the authority granted in section 7731-4 G. C., the amount paid to the parent by the board of education under its agreement would, in a general sense, be the "personal service expense" growing out of such transportation, but for the purposes of computation this whole amount paid to the person transporting cannot be counted because of the inhibition appearing in section 7787 G. C. Such section reads in part as follows:

"The board of education of each district shall make a report to the county auditor, on or before the first day of August in each year, containing a statement of the receipts and expenditures of the board, the number of schools sustained, including * * * *the personal service expense incurred in transporting pupils* and such other items as the superintendent of public instruction requires."

However the personal service expense incurred in transporting pupils is computed in three ways: (1) Where the district owns the vehicle of transportation and the means of locomotion, (2) where the district owns the vehicle of transportation and not the means of locomotion, or (3) where the district owns neither the vehicle nor the means of locomotion. Where the transportation cases come under the first mentioned class, the entire compensation paid to the driver shall constitute the "personal service expense," while in the second class of cases, where the district owns the vehicle but not the means of locomotion, but one-half the amount paid for transporting pupils shall constitute "personal service expense." The cases which you have in mind, that is, where the parent or person in charge of the child furnishes the vehicle, the means of locomotion and the labor necessary in transporting pupils, falls within the third class as regards the computation for personal service expense, for section 7787 G. C., as amended in 108 O. L., Part 2, page 1303, reads:

"* * * In case the district owns neither the vehicle nor the means of locomotion, one-third the amount paid for transporting pupils shall constitute such expense (personal service expense)."

Thus one-third of the amount paid for transporting pupils where such transportation is furnished wholly by the parent, would constitute the "personal service expense" and one-third of this amount paid to any parent or person in charge of any child transported would be the amount which the board would use as the amount to which it was entitled for personal service expense incurred in transporting pupils under the provisions of section 7787 G. C., supra. When it becomes the duty of the county auditor to apportion the school funds for his county, in which apportionment there is to be included the personal service expense incurred in transporting pupils in the manner set forth in section 7787 G. C., the county auditor is governed by section 7600, as amended in 109 O. L., p. 146, and which reads in part as follows:

“After each semi-annual settlement with the county treasurer each county auditor shall immediately apportion school funds for his county. Each city school district and each exempted village school district shall receive the full amount of the proceeds of the levy of two and sixty-five hundredths mills provided in section 7575, General Code, in the given school district. The proceeds of such levy upon property in the territory of the county outside of city and exempted village school districts shall be apportioned to each school district and part of district within the county outside of city, and exempted village school districts on the basis of the number of teachers and other educational employees employed therein, and the expense of transporting pupils as shown by the reports required by law, and the balance according to the ratio which the aggregate days of attendance of pupils in such districts, respectively, bears to the aggregate days of attendance of pupils in the entire county outside of exempted village and city school districts.

* * * * *

“The annual distribution attributed to expense of transportation of pupils shall be fifty per centum of the personal service expense incurred in such transportation.”

Here it will be noted that the proceeds of the two and sixty-five hundredths mill levy provided in section 7575 G. C. upon the property in the territory of the county outside of the city and exempted village school districts, is to be apportioned to each of such school districts and parts of districts on the bases mentioned therein, and the facts which have been placed before the county auditor in the reports filed by the board of education under direction of section 7787 G. C. One of these bases is “the expense of transporting pupils as shown by the reports required by law” and the transporting of a pupil to school by the parent or person in charge is a transportation expense which the local board of education can show in its reports, but in pleading such “personal service expense” to be computed, only one-third the amount paid for transporting pupils shall constitute such personal service expense as provided in section 7787 G. C., the “personal service expense” incurred in transportation, provided in section 7731-4 G. C., at the option of the board of education, having been established.

Section 7600 then says that “the annual distribution attributed to expense of transportation of pupils shall be fifty per centum of the personal service expense incurred in such transportation.” It is possible that in your question making reference to section 7731-4 G. C. and 7600 G. C., you have overlooked the legal definition of “personal service expense” as defined in section 7787 G. C., supra. Again, by a careful reading of section 7600 G. C. you will note that city school districts and exempted village school districts are omitted from this apportionment procedure by the county auditor after each semi-annual settlement with the county treasurer and the apportionment for “the expense of transporting pupils as shown by the reports required by law” is limited to rural school districts and village school districts in the county school district. As a concrete illustration, if a village board of education or rural board of education makes an agreement with a parent for the transportations of a school pupil or pupils, paying such parent or person in charge a certain amount, only one-third of the amount paid to the parent or person in charge for the transportation of the pupil or pupils would be the personal service expense as defined in section 7787 as regards the annual distribution by the county auditor. This is further limited by the provision that only fifty per centum of the personal service expense incurred in the transportation of pupils can be allowed in

the annual distribution. In practical operation this would be fifty per centum of one-third, or one-half of one-third, which would be one-sixth, as a fraction which the local board of education could plead as a reimbursement for transportation expense where it had an agreement with parents or other persons in charge for the transportation of pupils to school.

In reply to your inquiry, then, you are advised that it is the opinion of this department that

1. Where a rural school district or a village school district, acting under section 7731-4 G. C., makes an agreement with a parent or other person in charge of a child for the transportation of such child to school, and the district owns neither the vehicle nor the means of locomotion, only one-third the amount paid for transporting such pupils shall constitute the "personal service expense" as defined in section 7787 G. C.

2. In the annual distribution of school funds by the county auditor after each semi-annual settlement with the county treasurer, the expense that may be attributed to the transportation of pupils in a village district or a rural school district shall be fifty per cent of the "personal service expense" incurred in such transportation, as defined in section 7787 G. C.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2805.

COUNTY RECORDER—NOT AUTHORIZED TO ACCEPT PERSONAL CHECKS IN LIEU OF FEES—SEE SECTION 8572 G. C.—LOSS SUSTAINED BY COUNTY RECORDER PERSONALLY.

By the provisions of section 8572 G. C. a county recorder is not authorized to accept personal checks in lieu of fees provided, and in the event such a check is accepted by said recorder, and proves to be valueless by reason of the bankruptcy or insolvency of the maker, the loss occasioned thereby must be sustained by said county recorder.

COLUMBUS, OHIO, January 20, 1922.

HON. KARL TIMMERMEISTER, *Prosecuting Attorney, Wapakoneta, Ohio.*

DEAR SIR:—Receipt is acknowledged of your letter of recent date reading as follows:

"I would like to have your opinion on the following matter:

Our county recorder received twenty (20) chattel mortgages for filing in his office, accompanied by a check for five dollars (\$5.00), covering the charges for work of the just mentioned mortgages, and the check was made payable to the order of Andrew Lampert, who is the present recorder of this county. The check was accepted in good faith as fees for the same. After the above mortgages were fully taken care of, the check was returned marked "In Bankruptcy," which I understand is true.

I would like to know, in case the same cannot be recovered, whether the county or the county recorder bears the loss."

Section 8572 G. C. pertinent to your inquiry is quoted herewith:

"For services in respect to chattel mortgages, or instruments for conditional sales, as provided in this chapter, the officer shall be entitled to re-