

1471.

SCHOOLS—EXPENSES OF CONDUCTING AN ELEMENTARY SCHOOL—
WHAT ITEMS ARE INCLUDED IN TUITION EXPENSES.

1. *The tuition expenses of conducting an elementary school is the difference between the sum total of all expenses had in the district and the total of the cost of permanent improvements and repairs, plus the district's apportioned amount of the state common school fund and the apportioned amount of the state school levy retained by the county.*

2. *This difference, divided by the total enrollment of pupils in the district, is the per capita cost of tuition payable in monthly installments. Attendance for part of a month incurs liability for the whole month.*

3. *In finding the per capita cost of tuition for a High School the divisor to be used is "the average monthly enrollment."*

COLUMBUS, OHIO, July 29, 1920.

HON. LEWIS STOUT, *Prosecuting Attorney, Wapakoneta, Ohio.*

DEAR SIR:—The receipt of your request of recent date for the opinion of this department is acknowledged, and is as follows:

"In figuring the expenses of conducting the elementary schools of a district, under Code, section No. 7736, would the items of interest on indebtedness, foreign tuition, insurance on buildings, salaries of board members and special tax be regarded as a part of the expenses of *conducting* the schools?"

The contention is made that the word 'conducting' simply means the cost of heating the buildings, janitor service, teachers' salaries and supervision."

The law which is concerned in your question is found in the following sections of house bill No. 615 (108 O. L. 1303):

"Section 7736. Such tuition shall be paid from either the tuition or the contingent funds and the amount per capita must be ascertained by dividing the total expenses of conducting the elementary schools of the district attended, exclusive of permanent improvements and repairs, by the total enrollment in the elementary schools of the district, such amount to be computed by the month. In computing such total expenses of conducting the elementary schools of such district, the amount of the state common school fund and the proceeds of the state school levy retained in the county, apportioned to such district on account of teachers and other persons employed in such elementary schools, the amount of said state common school fund apportioned thereto on account of transportation of pupils, and the amount of such funds apportioned thereto on account of aggregate days of attendance of pupils shall be deducted from the gross expenses of conducting such schools. An attendance any part of a month will create a liability for the whole month."

"Section 7747. The tuition of pupils who are eligible for admission to high school and who reside in rural districts, in which no high school is maintained, shall be paid by the board of education of the school district in which they have legal school residence, such tuition to be computed by the month. An attendance any part of the month shall create a liability for the entire month. No more shall be charged per capita than the amount ascertained by dividing the total expenses of conducting the high school of the district attended, exclusive of permanent improvements and repair, by the average monthly enrollment in the high school of the district.

In computing such total expenses of conducting such high school, the

amount of the state common school fund and the proceeds of the state school levy retained in the county, apportioned to such district on account of teachers and other persons employed in such high school, the amount of said common school fund apportioned thereto on account of transportation of high school pupils and the amount of such funds apportioned thereto on account of aggregate days of attendance of pupils shall be deducted from the gross expenses of conducting such schools. The district superintendent shall certify to the county superintendent each year the names of all pupils in his supervision district who have completed the elementary school work, and are eligible for admission to high school. The county superintendent shall thereupon issue to each pupil so certified a certificate of promotion which shall entitle the holder to admission to any high school. Such certificates shall be furnished by the superintendent of public instruction."

It will be observed that to find the total expenses of conducting the elementary schools of a district, the following sums are to be subtracted from the sum total of all expenses had in such district:

1. The cost of permanent improvements and repairs;
2. The amount of the state common school fund;
3. The amount of the state school levy retained in the county, apportioned to the elementary schools on account of teachers and other employes and the transportation of pupils;
4. The amount apportioned thereto on account of aggregate days of attendance.

The difference thus obtained will be the total expenses of conducting the elementary schools.

The amount of this difference must contain no item that may be properly charged in the total of items one, two, three, and four. A special tax, however raised, is to be applied to the purpose for which such tax was levied, and only that, if anything, which remains after the special purpose for which the tax was levied has been fully paid may be transferred to the contingent fund of the board. So that if such tax was used to repair the building or purchase anything belonging to the permanent equipment of the district, it should be charged in item one above. See section 7603, house bill 615 (108 O. L. 1303.) The same may be said of items of interest if the interest accrues from bonds sold or taxes levied for permanent improvement or repairs. The other items you name, to wit, foreign tuition, i. e., tuition paid for the teaching of the pupils of the elementary district at a school other than its own, insurance, and salaries of board members are properly charged to the business of conducting a school.

To use an ordinary example from the business world, it is as if the buildings, grounds, their equipment and repairs, and the funds coming to the school from the taxes levied by the state are regarded as the educational plant and capital stock of the educational activities of the district; and the other items mentioned above, together with the salaries of employes, cost of heat, light and supplies, etc., are the operating expenses and overhead charges, with no allowance for depreciation. No allowance can be made for depreciation since the statute expressly excludes permanent improvement and repairs. Salaries of board members, with necessary contingent expenses and supplies, are part of the overhead necessary to carry on the business and are to be included in the cost of the output of this educational enterprise.

The total expense in conducting an elementary school of the district, divided by the total enrollment in the school, is by law the per capita cost of running it and is the amount to be charged for the tuition of each pupil, separated into monthly installments. The law provides that attendance for part of a month incurs liability for the whole month.

The same method is to be followed in computing the total expenses in conducting a high school except that the divisor is the "average monthly enrollment." Section 7747 has been quoted to show the same deductions are to be made and to call attention to the different divisor to be used. Care must be taken that items chargeable to the conduct of an elementary school are separated from those chargeable to conducting high schools.

It is apparently the intent of this new law to establish painstaking businesslike care in running either an elementary or a high school and in the conduct of all the affairs of the public schools to the end that an equitable and just distribution of the cost of either kind of school shall be had. In this way all schools may be as good and as efficient as the capital of each district and the enterprise of its school authorities can make them, as a result of such a careful, efficient and businesslike management.

In the construction of these sections of the school law the legislative intent and the plain meaning of the language used is to be observed. In *Scheu vs. State*, 83 O. S. 146, the court says:

"In the construction of a statute the question is, what did the legislature mean by what it said, and not, what did it mean to say."

These statutes are unambiguous and clear in phrase and it is the intention to set out herein what is their meaning. Such discretion may be exercised in the items that are charged to what is known as cost of permanent improvement and repairs as circumstances in each case seem fairly to allow. But the items numbered two, three and four herein, which are to be deducted from the total expenditures for the school, allow of no discretion and must be copied from the county auditor's certificate of apportionment as furnished to the treasurer and clerk of each school district.

Respectfully,

JOHN G. PRICE,
Attorney-General.

1472.

APPROVAL, FINAL RESOLUTION FOR ROAD IMPROVEMENT IN
GEAUGA COUNTY, OHIO.

COLUMBUS, OHIO, July 29, 1920.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*

1473.

APPROVAL, ARTICLES OF INCORPORATION OF THE RICHLAND
EQUITY FIRE & LIGHTNING PROTECTED MUTUAL INSURANCE
ASSOCIATION.

COLUMBUS, OHIO, August 3, 1920.

HON. HARVEY C. SMITH, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—The articles of incorporation of the Richmond Equity Fire & Lightning