

It is accordingly my opinion that these bonds constitute a valid and legal obligation of said county.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

688.

APPROVAL—BONDS OF CUYAHOGA COUNTY, OHIO,
\$10,000.00.

COLUMBUS, OHIO, June 2, 1937.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:

RE: Bonds of Cuyahoga County, Ohio, \$10,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above county dated October 1, 1936. The transcript relative to this issue was approved by this office in an opinion rendered to your commission under date of October 2, 1936, being Opinion No. 6141.

It is accordingly my opinion that these bonds constitute a valid and legal obligation of said county.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

689.

PUBLIC ACCOUNTANT EMPLOYED BY SCHOOL DISTRICT
LIBRARY, UN-AUTHORIZED.

SYLLABUS:

A board of trustees of a school district library established under the

provisions of Section 7635, General Code, is not authorized to employ a public accountant to audit the accounts of the library.

COLUMBUS, OHIO, June 2, 1937.

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

GENTLEMEN:

This will acknowledge receipt of your recent communication which reads as follows:

“You are respectfully requested to furnish this department your written opinion upon the following:

May the board of trustees of a school district library, established under the provisions of Section 7635, General Code, legally employ certified public accountants to audit the accounts of the library?

Your attention is called to the provisions of Sections 274, et seq., General Code, authorizing this department to audit and report upon the transactions of such boards.”

The only provisions of the General Code, pertaining to the employment or appointment of persons for the management and control of a school district library are Sections 7636, 7637 and 7638-1, General Code.

Section 7636, General Code, specifies the number and qualifications of the library trustees, and that, they “must serve without compensation.” Section 7637, General Code, provides that the board may employ a librarian and assistants, “but previous to such employment their compensation shall be fixed.” Section 7638-1, General Code, provides that, “for the transaction of its business the board of library trustees shall elect a president, vice president, secretary and treasurer and *such other officers* as shall be deemed expedient or necessary, and with the exception of the offices of president and vice president, may repose the duties of such officers, who need not be members or member of the board, in one person.”

It will be observed by a reading of these statutes: that, the personnel of a school district library is limited to a librarian and assistants and the members of the board; that, provisions are made for a secretary and treasurer and “such other officers as shall be expedient or necessary” and that, such secretary and treasurer and “such other officers” may or may not be members of the board; that, the only provision for compensation is limited to the librarian and assistants; that, “such other officers” means officers of the board of library trustees; and that, assuming that it was not limited to officers of the board, a “certified public accountant” em-

ployed to audit the accounts of the library would be an employe and could not be included in the class of "such other officers."

There is no provision in any of these statutes that can be interpreted or construed as authorizing the board of library trustees to employ a certified public accountant. It is logical to assume that any books to be kept or reports to be prepared are not so complicated that the work cannot be done by the librarian or assistants or the secretary and treasurer. Especially is this true when we consider that all reports and accounts of the board of library trustees are subject to being checked and examined.

Section 274, General Code, empowers the Bureau of Inspection and Supervision of Public Offices to examine the accounts of every board "receiving public money for its use and purpose, and may require of them reports in such form as it may prescribe." The board of library trustees is such a board "receiving public money for its use and purpose," and therefore, subject to having its accounts examined. In view of this fact, the employment of, and expenditure of money for, such an accountant would be an unnecessary expenditure.

It is a well known rule of law that an administrative board may not expend money except as provided by statute. This principle of law has been clearly enunciated by the Supreme Court of Ohio. In the case of *State, ex rel. Locher, Pros. Atty., vs. Henning, et al.*, 95 O. S., 97, at page 99, the Court said:

"The legal principle is settled in this state that county commissioners, in their financial transactions, are invested only with limited powers, and that they represent the county only in such transactions as they may be expressly authorized so to do by statute. The authority to act in financial transactions must be clear and distinctly granted, and, if such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed upon the county."

Again, in the case of *State, ex rel A. Bentley & Sons Co. vs. Pierce, Aud.*, 96 O. S., 44, the Court held:

"3. In case of doubt as to the right of any administrative board to expend public moneys under a legislative grant, such doubt must be resolved in favor of the public and against the grant of power."

There is no provision in any statute in regard to a school district library which permits the employing of, or expending money for, a certified public accountant.

The authority of a board of library trustees to employ others beside librarian and assistants, and make expenditures not provided for, expressly or impliedly, has been discussed in Opinions of former Attorneys General. In Opinions of the Attorney General for 1924, Vol. I, page 652, it was held:

“A board of trustees of a library is created by statute, and has only such powers as are provided in the statute, and such other powers as are reasonably necessary to the accomplishment of the purposes of the board.”

In Opinions of the Attorney General for the year 1928, Volume II, at page 890, it was said:

“It is a well recognized rule of law, that statutory boards, such as a board of trustees for a school district public library, are limited in their powers to such as are expressly granted to them by the statutes, or necessarily included within such grants, to consummate the powers expressly granted. There is no authority either express or implied, for library boards such as these, to employ and pay anyone except librarians and assistants.”

The conclusions reached in both opinions appear to be sound, and I concur in the same.

It therefore is my opinion that, a board of trustees of a school district library, established under the provisions of Section 7635, General Code, is not authorized to employ a public accountant to audit the accounts of the library.

Respectfully,

HERBERT S. DUFFY,
Attorney General.