

enlarged for that purpose. The territory coming into the district becomes subject to the jurisdiction of this board of education in school matters in the same manner and to the same extent as the territory which formerly constituted the district. It has been held that lands thus annexed are liable to local taxation on account of pre-existing debts of the subdivision to which the lands are annexed. *Blanchard, Treasurer, vs. Bissell*, 11 O. S. 96.

The board of education of the rural district, having been duly authorized to levy taxes beyond certain tax limitations, still possesses that same power after territory is annexed, to the district, in the absence of any statutory inhibition on that power, regardless of the manner by which such annexation is accomplished, and in my opinion that power authorizes the making of such levy upon all the lands embraced in the district.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2553.

COUNTY FUNDS—TRANSFER THEREOF—NO AUTHORITY FOR TRANSFERRING UNAPPROPRIATED BALANCES IN A COUNTY ROAD FUND TO THE BOND RETIREMENT FUND TO MEET A DEFICIENCY THEREIN.

SYLLABUS:

Unappropriated balances on hand in a county road fund may not be transferred to the bond retirement fund for the purpose of meeting a deficiency therein.

COLUMBUS, OHIO, November 20, 1930.

HON. PAUL J. WORTMAN, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“I would like your opinion on the following question:

On account of the great amount of delinquent taxes for special assessments for road paving and repairs, the Bond Retirement Fund to pay these obligations is exhausted. The county general fund is also short and there is no available money in this fund to pay these bonds.

We are, therefore, asking you for your written opinion as to the legality of paying road paving bonds and interest on same, including road bonds issued for paving roads and streets where the cost has been specially assessed and where funds are now short on account of heavy delinquencies of both general taxes and special assessments, out of any unappropriated balances in the county road funds, including road funds received from the levy made under Section 1222, General Code, as amended by the last session of the legislature, in Ohio Laws, Section 113, page 614.”

All outstanding serial bonds of a county of every specific issue, whether they be general tax bonds or special assessment bonds, must be paid out of the bond retirement fund. Section 5625-9, General Code, provides in part as follows:

“Each subdivision shall establish the following funds:

(a) General fund.

(b) Sinking fund whenever the subdivision has outstanding bonds other than serial bonds.

(c) Bond retirement fund, for the retirement of serial bonds, or of notes or certificates of indebtedness.

(d) A special fund for each special levy.

* * * * *

Under the provisions of Section 5625-10, General Code, all revenue derived from general or special levies for debt charges on serial bonds or on notes or certificates of indebtedness having a life of less than five years shall be paid into the bond retirement fund. This section further provides that all revenue derived from a special levy shall be credited to a special fund for the purpose for which the levy was made. It follows, therefore, that all moneys derived from road levies must appear in a special county road fund established under authority of paragraph (d) of Section 5625-9, supra. If any money in a county road fund is to be used for the payment of outstanding bonds, such money must be transferred from such county road fund wherein such moneys are available to the bond retirement fund sought to be relieved. It, accordingly, becomes necessary in answering your question to determine whether authority for such transfer exists under the provisions of the Budget Law.

In consideration of this question, it must be borne in mind at the outset that under the provisions of Section 5625-10, General Code, "Money paid into any fund shall be used only for the purposes for which such fund is established." The exceptions to this general provision of Section 5625-10 are contained in Section 5625-13, which section provides how transfers shall be made from one fund to another. It provides in so far as pertinent as follows:

"No transfers shall be made from one fund of a subdivision to any other fund, by order of the court or otherwise, except as hereinafter provided:

* * * * *

d. Unless otherwise provided by law, the unexpended balance in any special fund, other than an improvement fund, existing in accordance with Section 5625-9, paragraph (d), (f), or (g) or Section 5625-11 of the General Code, may be transferred to the general fund or to the sinking fund or bond retirement fund after the termination of the activity, service or other undertaking for which such special fund existed, but only after the payment of all obligations incurred and payable from such special fund.

e. Moneys may be transferred from the general fund to the sinking fund or the bond retirement fund to meet a deficiency in either of the latter funds.

f. Moneys appropriated therefor may be transferred from the general fund of a subdivision to a fund authorized by Sections 5625-11 or 5625-12 of the General Code or to the proper fund of a district authority.

Except in the case of transfers in accordance with paragraphs (e) and (f) of this section, transfers herein authorized shall only be made by resolution of the taxing authority passed with the affirmative vote of two-thirds of the members thereof."

A consideration of the Budget Law and the Uniform Bond Act as a whole makes it quite evident that the fundamental purpose evinced is that the retirement of bonds is to be taken care of by the collection of special assessments or by the collection of general property taxes and not by transfers from funds established by special levies which are to be used for special purposes. Hence it is provided in Section 5625-13, supra, that transfers may be made only from the general fund in the event there is a deficiency in the sinking fund or the bond retirement fund. There is one

other provision whereby the interest and principal requirements of outstanding bonds may be provided for by means of the transfer of funds and that is in the event of an existing surplus which is no longer needed for the undertaking or activity for which it existed, as provided in paragraph (d) of Section 5625-13, supra. This paragraph is, of course, not applicable to a fund for a continuing purpose such as a county road fund.

It is obvious from a careful consideration of the provisions of Section 5625-13, which provisions are expressly exclusive, that there is no authority for a transfer such as would be necessary to effectuate the purposes which you desire.

In view of the foregoing and in specific answer to your question, it is my opinion that unappropriated balances on hand in a county road fund may not be transferred to the bond retirement fund for the purpose of meeting a deficiency therein.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2554.

APPROVAL, BONDS OF CANFIELD VILLAGE SCHOOL DISTRICT,
MAHONING COUNTY, OHIO—\$55,000.00.

COLUMBUS, OHIO, November 20, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2555.

APPROVAL, BONDS OF VILLAGE OF AMHERST, LORAIN COUNTY,
OHIO—\$64,229.52.

COLUMBUS, OHIO, November 20, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2556.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE P. H. MEYER COMPANY, INC., LOUISVILLE, KENTUCKY, FOR HEATING AND TEMPERATURE CONTROL FOR THE OHIO STATE OFFICE BUILDING, COLUMBUS, OHIO, AT AN EXPENDITURE OF \$99,250.00—SURETY BOND EXECUTED BY THE NATIONAL SURETY COMPANY.

COLUMBUS, OHIO, November 20, 1930.

HON. CARMI A. THOMPSON, *Chairman, State Office Building Commission, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by William Green, Elmer S. Landes, Warner P. Simpson, Carmi A.