

members should deliberately and without good reason fail in its duty. Said Section 7611, General Code, being a penal statute its provisions would no doubt be held not to be applicable where the board, because of lack of funds, finds it impossible to perform its full duty under the law.

Of course, if a local board of education is without funds to maintain the schools in its district and for that reason the county board maintains the schools under the authority granted it by Section 7610-1, General Code, and later the local board comes into funds with which it may maintain the schools, it is the duty of the local board to again take up the burden of maintaining the schools and it is the duty of the county board of education to turn over to the local board the task of maintaining the schools in the district.

Specifically answering your questions it is my opinion that:

1. Where a board of education in a school district under the jurisdiction of a county board of education fails for any reason, whether because of a lack of funds or otherwise, to provide proper school privileges for the youth of school age within the district, as provided by law, it is the duty of the county board of education of the county school district of which the said district is a part, upon being advised and satisfied thereof, to perform any and all such duties or acts in the same manner as the local board is authorized by law to perform them, as provided by Section 7610-1 of the General Code of Ohio.

2. Strictly speaking, the authority and powers of a county board of education which is performing the duties of a local board of education because of the local board's failure to do so by authority of Section 7610-1, General Code, do not cease so long as the local board is derelict in its duty but of course where the dereliction of duty on the part of the local board is due only to a lack of funds, and funds thereafter become available, it is the duty of the local board to take up the burden of maintaining the schools and the county board should insist on its doing so.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4370.

APPROVAL, BONDS OF CITY OF TOLEDO, LUCAS COUNTY, OHIO,
\$15,000.00.

COLUMBUS, OHIO, June 29, 1935.

State Employes Retirement Board, Columbus, Ohio.

4371.

APPROVAL, BONDS OF CITY OF LIMA, ALLEN COUNTY, OHIO, \$5,000.00.

COLUMBUS, OHIO, June 29, 1935.

State Employes Retirement Board, Columbus, Ohio.