

In the light of the legal principles hereinbefore discussed as applied to the subject of your inquiry, I am of the opinion:

1. A board of education may not lawfully purchase a site for school buildings or other school purposes upon an agreement to pay for the property in installments payable over a period of years.

2. No authority exists for a board of education to encumber property which it owns by a mortgage or to purchase property encumbered by a mortgage by the terms of which agreement of purchase the board of education assumes the mortgage and agrees to pay the same in the future as payments thereon become due.

3. A board of education may not lawfully lease property for any purpose in such manner and upon such terms that the transaction when viewed in its proper light is in fact a purchase of the property under the guise of a lease.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1268.

RESERVOIR LAND LEASE, STATE TO HELEN B. BAROK,  
LAND WESTERLY EMBANKMENT BUCKEYE LAKE,  
SOUTH OF LAKESIDE, LOT NO. 2-A, FAIRFIELD  
COUNTY, USE, COTTAGE SITE AND DOCKLANDING  
PURPOSES.

COLUMBUS, OHIO, October 4, 1939.

HON. DON G. WATERS, *Commissioner, Division of Conservation and  
Natural Resources, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a certain reservoir land lease in triplicate, executed by the State of Ohio, through you as Commissioner of the Division of Conservation and Natural Resources to Helen B. Barok of Columbus, Ohio.

By this lease, which is one for a term of fifteen years and which provides for an annual rental of \$58.80, there is leased and demised to the lessee above named, permission to occupy and use for cottage site and docklanding purposes only, that portion of the inner slope and waterfront and the outer slope and borrow pits adjacent thereto, of the westerly embankment of Buckeye Lake, that is included in embankment Lot No. 2-A, south of Lakeside, as laid out by the Ohio Canal Commission in 1905, and being part of the northwest quarter of the southwest quarter of Section 22, Township 17, Range 18, Fairfield County, Ohio. Said lot has a frontage of one hundred (100) feet, measured along the top of the outer slope of the reservoir embankment.

Upon examination of this lease, I find that the same has been properly executed by you as Commissioner of the Division of Conservation and Natural Resources and by said lessee. I further find, upon consideration of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with Section 471, General Code, under the authority of which this lease is executed, and with other statutory enactments relating to leases of this kind.

I am accordingly approving this lease as to legality and form, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1269.

RELIEF—COUNTY AUDITOR—MAY NOT DEDUCT FROM UNDIVIDED “LOCAL GOVERNMENT FUND,” PAID INTO TREASURY UNDER SECTIONS 5546-18, 5546-19, G. C., AN AMOUNT SUFFICIENT TO PAY PRINCIPAL AND INTEREST OF NOTES ISSUED UNDER AMENDED SENATE BILL 486, 117 O. L., 855, BEFORE MAKING DISTRIBUTION TO LOCAL SUBDIVISIONS UNDER SECTION 5546-19, G. C.

**SYLLABUS:**

*The county auditor of a county which has issued notes pursuant to the authority of Amended Senate Bill No. 486, appearing in 117 O. L., 855, may not deduct from the undivided local government fund, paid into the county treasury pursuant to the authority of Sections 5546-18 and 5546-19, General Code, an amount sufficient to pay the principal and interest of such notes before making distribution of such moneys to the local subdivisions under authority of Section 5546-19, General Code.*

COLUMBUS, OHIO, October 4, 1939.

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

GENTLEMEN: Your recent request for my opinion reads:

“Amended Senate Bill No. 486 passed by the Ninety-second General Assembly of Ohio at the third special session and found in O. L. 117, page 855, appropriated to the controlling board for poor relief in the year 1938, the sum of one million, five hundred thousand dollars to be paid out of the revenues derived in 1939. Such amount to be allocated and