

2842.

APPROVAL—BONDS OF VILLAGE OF NEW PARIS, PREBLE COUNTY, OHIO, \$12,000.00—PART OF ISSUE OF \$25,000.00, DATED APRIL 1, 1938.

COLUMBUS, OHIO, August 17, 1938.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*  
GENTLEMEN:

RE: Bonds of Village of New Paris, Preble County,  
Ohio, \$12,000.00 (Unlimited.)

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise part of an issue of sanitary sewer and disposal plant bonds in the aggregate amount of \$25,000, dated April 1, 1938, bearing interest at the rate of 3¼ % per annum.

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute valid and legal obligations of said village.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

2843.

STATE TEACHERS RETIREMENT BOARD—WHEN TEACHER ELECTED TO SERVE TERM OF TWO YEARS RETIRES ON PENSION—MEMBERSHIP CEASES IN RETIREMENT SYSTEM AND TEACHER NOT ELIGIBLE TO SERVE REMAINDER OF TWO YEAR TERM FOR WHICH HE WAS ELECTED.

*SYLLABUS:*

*If a teacher member of the State Teachers' Retirement Board who was elected to serve a term of two years, from September 1, 1937, to August 31, 1939, inclusive, retires on pension on August 31, 1938, such*

*teacher's membership ceases in the State Teachers' Retirement System and the teacher is not eligible to serve the remainder of the two year term for which he was elected.*

COLUMBUS, OHIO, August 18, 1938.

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

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

"On May 3, 1937, a teacher member of the Retirement Board was elected to serve a term of two years, from September 1, 1937 to August 31, 1939, inclusive. If this teacher member should retire on August 31, 1938, would this action automatically remove him from membership on the Retirement Board, or would he be entitled to serve the remainder of the two year term for which he was elected?"

I assume that your request refers to a teacher who is retiring on a pension, as provided in Section 7896-34, General Code.

Section 7896-4, General Code, provides as follows:

"The retirement board shall consist of five members as follows: (a) the superintendent of public instruction; (b) the auditor of state; (c) the attorney general, *two other members known as teacher members, who shall be elected by ballot by the members of the retirement system.*" (Italics the writer's.)

Section 7896-6, General Code, reads as follows:

"Annually after the first election a member of the retirement system shall be elected by ballot to membership in the retirement board to serve for a term of two years beginning on the first day of September following the election. Vacancies occurring in the terms of teacher members of the board shall be filled by the remaining members of the board of election for the unexpired terms. Teacher members of the retirement board who fail to attend the meetings of the board for four months or longer, without being excused, shall be considered as having resigned and successors shall be elected for their unexpired terms."

Section 7896-7 reads in part as follows:

“All elections for members of the retirement board after the first election shall be held on the first Monday of May of each year under the direction of the retirement board. Any member of the retirement system shall be eligible for election as a member of the retirement board and the name of any member who shall be nominated by a petition signed by at least one hundred members of the retirement system shall be placed upon the ballots by the retirement board as a regular candidate.”

It is to be observed from a reading of the provisions of Sections 7896-4, 7896-6 and 7896-7, General Code, *supra*: that, any member of the Teachers' Retirement System is eligible for election as a member of the Retirement Board; that, the two members “known as teacher members,” must be members of the Retirement System; and that, although by the provisions of Section 7896-6, *supra*, a teacher member of the Board is elected “to serve for a term of two years,” provisions are also made for filling of “vacancies occurring in the terms of teacher members of the board.”

Section 7896-25, General Code, reads, in part, as follows:

“The membership of any person in the retirement system shall cease if he withdraws his accumulated deductions or if he retires on a pension as provided in this act, or if he dies, or if in any four year period after he last became a member, he shall render less than two years of service as a teacher, unless the retirement board in accordance with its rules and regulations shall grant a longer period of absence from active service as a teacher without the loss of his status as a member.”

By the language employed in Section 7896-25, *supra*, it is clear, plain and free from any doubt, that the membership of a teacher in the State Teachers Retirement System ceases, if the teacher withdraws his accumulated deductions, or, retires on a pension, or, dies, or, in any four-year period after he last became a member renders less than two years of service without securing a longer period of absence in accordance with the rules and regulations of the Retirement Board.

A teacher's membership on the State Teachers' Retirement Board is dependent on the teacher being a member of the State Teachers' Retirement System. By the language of Section 7896-25, *supra*, membership in the Retirement System ceases instantly, upon a member retiring on a pension. There would be no question whatsoever, that a teacher member of the Retirement Board would not be entitled to membership in the State Teachers' Retirement Board if he died or withdrew his

accumulated deductions. A teacher member of the board that retires on a pension is not entitled to any more rights in membership in the State Teachers' Retirement System than a teacher who withdraws his accumulated deductions, or, dies.

Therefore, in specific answer to your question it is my opinion that, if a teacher member of the State Teachers' Retirement Board who was elected to serve a term of two years, from September 1, 1937, to August 31, 1939, inclusive, retires on a pension on August 31, 1938, such teacher's membership ceases in the State Teachers' Retirement System and the teacher is not eligible to serve the remainder of the two year term for which he was elected.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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2844.

APPROVAL—BONDS OF DENISON CITY SCHOOL DISTRICT,  
TUSCARAWAS COUNTY, OHIO, \$15,000.00.

COLUMBUS, OHIO, August 18, 1938.

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

GENTLEMEN:

RE: Bonds of Denison City School District, Tuscarawas County, Ohio, \$15,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above school district dated August 1, 1927. The transcript relative to this issue was approved by this office in an opinion rendered to your board under date of October 10, 1927, being Opinion No. 1131.

It is accordingly my opinion that these bonds constitute valid and legal obligations of said school district.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*