

the doctrine of the case of *State ex rel. Hunt, Prosecuting Attorney vs. Fronizer*, 77 O. S., page 7. See also opinions of the Attorney General, 1920, page 1122.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

1943.

APPROVAL, BONDS OF BROWN TOWNSHIP RURAL SCHOOL DISTRICT,  
CARROLL COUNTY—\$4,100.00.

COLUMBUS, OHIO, June 5, 1930.

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

1944.

APPROVAL, BONDS OF FRANKLIN TOWNSHIP RURAL SCHOOL DISTRICT,  
HARRISON COUNTY—\$5,000.00.

COLUMBUS, OHIO, June 5, 1930.

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

1945.

DISTRICT ADVISORY COUNCIL—GENERAL HEALTH DISTRICT—MA-  
JORITY OF SUCH COUNCIL MUST BE PRESENT TO TRANSACT BUSI-  
NESS.

**SYLLABUS:**

*A majority of a district advisory council of a general health district, such as is provided for in Section 1261-18, General Code, is necessary to constitute a quorum to transact business.*

COLUMBUS, OHIO, June 5, 1930.

HON. H. M. MILLER, *Prosecuting Attorney, Gallipolis, Ohio.*

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

“At a recent meeting of the district advisory council of the general health district of this county, eight members of an entitled representation of seventeen members were present. Those present at said meeting elected a member of the district health board. This meeting was held pursuant to Sec. 1261-18, G. C.

What number or proportion of the entitled representation is required to transact business under this section?"

Section 1261-18, General Code, to which you refer, provides for the organization of a district advisory council of a general health district. It is as follows:

"Within sixty days after this act (G. C. Secs. 1261-16 et seq.) shall take effect the mayor of each municipality not constituting a city health district and the chairman of the trustees of each township in a general health district shall meet at the county seat and shall organize by selecting a chairman and a secretary. Such organization shall be known as the district advisory council. The district advisory council shall proceed to select and appoint a district board of health as hereinbefore provided, having due regard to the equal representation of all parts of the district. Where the population of any municipality represented on such district advisory council exceeds one-fifth of the total population of the district, as determined by the last preceding federal census such municipality shall be entitled to one representative on the district board of health for each fifth of the population of such municipality. Of the members of the district board of health, one shall be a physician. Annually thereafter the district advisory council shall meet on the first Monday in May for the purpose of electing its officers and a member of the district board of health and shall also receive and consider the annual or special reports of the district board of health and make recommendation to the district board of health or to the state department of health in regard to matters for the betterment of health and sanitation within the district or for needed legislation. It shall be the duty of the secretary of the district advisory council to notify the district health commissioner and the state commissioner of health of the proceedings of such meeting. Special meetings of the district advisory council shall be held on request of the district board of health or on the order of the state commissioner of health. On certification of the chairman and secretary the necessary expenses of each delegate to an annual or special meeting shall be paid by the village or township he represents. The district health commissioner shall attend all meetings of the district advisory council."

An examination of this section and other related sections of the General Code fails to disclose any provision as to what shall constitute a quorum of a district advisory council of a general health district to transact business. The general rule appears to be well established that, in the absence of a provision as to what number of the members of a public body shall constitute a quorum for the purpose of transacting business, a majority of the membership of the body shall be required. This rule is stated by Bouvier as follows;

"There is difference between an act done by a definite number of persons, and one performed by an indefinite number; in the first case a majority is required to constitute a quorum, unless the law expressly directs that another number may make one; in the latter case any number who may be present may act, the majority of those present having as in other cases, the right to act."

Upon this subject, the following language is used in 46 Corpus Juris, 1378, 1379:

"It is a well established parliamentary rule that a quorum of the body must be present in order to validate its action or to transact any business. In order to constitute a quorum it is not necessary that the entire member-

ship be present. In reckoning a quorum the general rule is that, in the absence of a contrary provision affecting the rule, the total number of all the membership of the body be taken as the basis; and ordinarily a majority of the authorized membership of a body, consisting of a definite number of members, constitutes a quorum for the purpose of transacting business; but it is competent for the statute or constitution creating the body to prescribe the number of members necessary to constitute a quorum or to delegate to the created body the authority so to prescribe. And an assembly indefinite as to number may act by a majority of the members present at any legal meeting, no matter how small a proportion they may constitute of the whole number entitled to be present."

While Section 1261-18, supra, does not establish a fixed number of members who shall constitute a district advisory council in all general health districts, it does provide that this council shall be made up of a definite number of members determined by the number of townships and the number and population of municipalities not constituting city health districts within the general health district.

In view of the foregoing and in specific answer to your question, it is my opinion that a majority of a district advisory council of a general health district, such as is provided for in Section 1261-18, General Code, is necessary to constitute a quorum to transact business.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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1946.

APPROVAL, BONDS OF MEIGS TOWNSHIP RURAL SCHOOL DISTRICT,  
MUSKINGUM COUNTY—\$9,000.00.

COLUMBUS, OHIO, June 5, 1930.

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

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1947.

TRANSFER OF TERRITORY—PETITION FILED WITH COUNTY BOARD OF EDUCATION BY THREE FOURTHS OF ELECTORS OF TERRITORY—CONSOLIDATION OF SUCH TERRITORY BY COUNTY BOARD BEFORE ACTING ON PETITION—DATE WHEN TRANSFER EFFECTIVE FOR PROPORTIONING FUNDS AND INDEBTEDNESS.

**SYLLABUS:**

1. *When power is given under the statutes to two different governmental agencies to act with reference to the same subject matter, exclusive authority to act with reference thereto is vested in the agency first acting under the power.*
2. *When three-fourths of the resident electors of school territory file a petition with the county board of education of the county school district of which such territory is a part,*