

3108.

APPROVAL, BONDS OF CUYAHOGA COUNTY, OHIO—\$122,000.00.

COLUMBUS, OHIO, August 28, 1934.

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

3109.

APPROVAL, BONDS OF CUYAHOGA COUNTY, OHIO—\$35,000.00.

COLUMBUS, OHIO, August 28, 1934.

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

3110.

APPROVAL, NOTES OF WALNUT RURAL SCHOOL DISTRICT,
GALLIA COUNTY, OHIO—\$2,000.00.

COLUMBUS, OHIO, August 28, 1934.

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

3111.

TEACHER—NO MINIMUM SALARY FIXED BY LAW—EDUCATIONAL
EQUALIZATION FUND DISTRIBUTION REDUCED WHERE TEACHERS
AND EMPLOYEES RECEIVE LESS THAN \$800 PER YEAR.**SYLLABUS:**

1. *In the distribution of any part of the proceeds of the 2.65 mills tax levy made in pursuance of former Section 7575, General Code, which remains to be distributed to rural and village school districts during the school year of 1934-35, the portions thereof to be distributed as being attributable to teachers and educational employees, should be computed in the manner provided by Section 7600, General Code. Salaries paid to teachers and educational employees of less than \$800 per year cannot be made the basis for the distribution of any part of the proceeds of the said tax.*

2. *No minimum salary is fixed by law for teachers in the public schools. The provision of Section 7600, General Code, with respect to the payment of at least \$800 per year to teachers, applies only to the distribution of the county educational equalization fund. All salaries to teachers and educational employees not based on*

an annual salary of at least \$800 per year should be disregarded in the distribution of this fund.

COLUMBUS, OHIO, August 29, 1934.

HON. WM. H. SCHWEIKERT, *Prosecuting Attorney, Lancaster, Ohio.*

DEAR SIR:—This will acknowledge the receipt of your request for my opinion which reads as follows:

"I wish to submit the following: Inasmuch as the legislature by House Bill No. 9 passed June 28, 1934, and filed in the office of the Secretary of State at Columbus, Ohio, on July 3, 1934, repealed Section 7575, can a rural school board employ teachers at a less salary than \$100.00 a month for an eight month school term?

An early reply will be highly appreciated."

Former Section 7575, General Code, which was repealed by House Bill No. 9 of the Third Special Session of the 90th General Assembly, read in part as follows:

"For the purpose of affording the advantages of a free education to all the youth of the state, there shall be levied annually a tax of 2.65 mills, the proceeds of which shall be retained in the several counties for the support of the schools therein."

The distribution of the proceeds of the 2.65 mills tax provided for by said Section 7575, supra, is provided for by Section 7600, General Code, which section is still in force. Said Section 7600, General Code, provides in part as follows:

"After each semi-annual settlement with the County Treasurer, each County Auditor shall immediately apportion school funds for his county. Each city school district and each exempted village school district shall receive the full amount of the proceeds of the levy of 2.65 mills provided in Section 7575, General Code, in the given school district. The proceeds of such levy upon property in the territory of the County outside of an exempted village school district shall be placed in the 'County Board of Education Fund' and shall be known as a 'County Educational Equalization Fund'. * * * *

The proceeds of the County Educational Equalization Fund shall be apportioned by the County Board of Education to each school district and part of district within the county outside of the city and exempted village school districts on the basis of the number of teachers and other educational employes employed therein, and the expense of transporting pupils, as determined by the above educational survey, and the balance according to the ratio which the aggregate days of attendance of pupils in such districts, respectively, bears to the aggregate days of attendance of pupils in the entire county outside of exempted village and city school districts.

The annual distribution attributable to teachers and employes shall be according to the following schedule: thirty-seven and one-half per centum of the salary of each teacher or educational employe receiving a

salary of not less than \$800.00 and a like percentage of the compensation to each person giving instruction in trade or technical schools, extension schools, night schools, summer schools and other special school activities, but not to exceed \$900.00 for any teacher or educational employe or other such person. * * *

It will be observed from the terms of the foregoing statute that in the distribution of the "County Educational Equalization Fund" districts of a County School District do not receive any portion of the fund attributable to teachers unless they pay to those teachers a salary of not less than \$800.00 per year. Any teachers in such districts who do not receive a salary of \$800.00 are not counted in the distribution of the County Educational Equalization Fund. The law does not and never has prohibited the employment of teachers at a salary of less than \$800.00 per year or \$100 per month. Strictly speaking, there is no minimum salary law for teachers in this State. The only provision with reference thereto is that contained in Section 7600, *supra*. The provisions with reference thereto in said statute is not a prohibition upon the employment of teachers at a salary of less than \$800.00 per year but simply provides, as stated above, that unless the teachers do receive a salary of \$800.00 per year the district is penalized, in a sense, in that it will not receive such a large proportion of the distribution of the 2.65 mills tax levy provided for by former Section 7575, General Code, as it would receive if it had paid the salary mentioned in the statute.

Although Section 7575, General Code, has been repealed and hereafter the levy therein provided for will not be made, there will be some distribution of this tax during the school year of 1934 and 1935, and so long as there remains any moneys arising from the levy of the 2.65 mills tax to be distributed, the provisions of Section 7600, General Code, will apply.

In specific answer to your question it may be stated that rural school boards are not required under the law to pay any specified salary to its teachers during the school year of 1934-35, but unless salaries are paid on the basis of at least \$800.00 per year the district will suffer in the distribution of the proceeds of the tax levied in pursuance of former Section 7575, General Code, to the extent that teachers receiving a less salary than that mentioned in Section 7600, General Code, will not be counted in the distribution of the proceeds of said tax to be made in accordance with Section 7600, General Code.

In the distribution of any part of the proceeds of the 2.65 mills tax levy made in pursuance of former Section 7575, General Code, which remains to be distributed to rural and village school districts during the school year of 1934-35, the portion thereof to be distributed as being attributable to teachers and educational employes, should be computed in the manner provided by Section 7600, General Code. Salaries paid to teachers and educational employes of less than \$800.00 per year cannot be made the basis for the distribution of any part of the proceeds of the said tax.

No minimum salary is fixed by law for teachers in the public schools, The provision of Section 7600, General Code, with respect to the payment of at least \$800.00 per year to teachers, applies only to the distribution of the county educational equalization fund. All salaries to teachers and educational employes not based on an annual salary of at least \$800.00 per year should be disregarded in the distribution of this fund.

Respectfully,

JOHN W. BRICKER,
Attorney General.