

1747.

BOARD OF EDUCATION—AUTHORITY TO PAY CLERK'S TRAVELING EXPENSES FOR CONFERENCE WITH DEPARTMENT OF EDUCATION ON STATE EQUALIZATION FUND DISCUSSED.

SYLLABUS:

A board of education may legally pay personal traveling expenses of its clerk when under the direction of said board he travels to Columbus to confer with the Department of Education with reference to the state equalization fund, when such mission is reasonably necessary in view of the facts and circumstances.

COLUMBUS, OHIO, April 8, 1930.

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

GENTLEMEN:—Acknowledgment is made of your communication presenting the following inquiry:

“May a board of education legally pay the personal traveling expenses of its clerk when he comes to Columbus to confer with the State Department of Education concerning State Aid Fund, the trip being made at the direction of the board of education?”

In connection with your inquiry, your attention is invited to an opinion rendered to your bureau by my predecessor, found in Opinions of the Attorney General for the year 1928, page 2618, in which it was held:

“The expenses of members of a board of education or of its clerk, when duly authorized in the premises, incurred by reason of attending upon the Tax Commission of Ohio for the purpose of procuring the consent of the Tax Commission to the submission of the question of the issue of bonds by a school district may legally be paid from the school funds of the district, whether such attendance is by request of the Tax Commission or whether it is made upon the determination of the board of education that it will be for the best interests of the district to do so.”

Said opinion reversed an opinion of the Attorney General found in Opinions of the Attorney General for the year 1926, page 553, in which it was held:

“The board of education of a rural or village school district is without authority to pay items of traveling expense incurred by the clerk of said board.”

The 1928 opinion above mentioned cites Throop on Public Offices to sustain the proposition that a public officer is entitled to receive from the public treasury reimbursement for extraordinary services incurred in the course of the discharge of his official duties which were not intended to be covered by the compensation allowed to him.

Section 7595 of the General Code provides for the state educational equalization fund to be administered by the Director of Education. Section 7595-1 authorizes the board of education of any district of a county school district, or any city or exempted village school district, to apply to the Director of Education, prior to July 31st of any year, for participation in such fund. Said section further

sets forth numerous conditions that must exist before an application for state aid may be granted. Section 7596 authorizes the Director of Education to make an examination of the situation and to require adjustments and changes in local school policy to be made as a condition for participation in such fund.

Without an extended discussion, it may be briefly stated that from a reading of the sections hereinbefore mentioned it clearly appears that in many instances it may be advisable for a board of education, or a representative thereof, to confer with the Director of Education with reference to a given application for state aid. Analogically speaking, it is believed there is no distinction in the case which you present and that under consideration by my predecessor with reference to the visits of the members or clerk of the board of education to the Tax Commission. While the opinion of my predecessor is contrary to a former holding of the Attorney General, as hereinbefore indicated, I am inclined to follow the 1928 opinion.

It is believed that my conclusion herein is in line with a holding that was made in my Opinion No. 1178, issued under date of November 12, 1929, which in substance held that judges of the Courts of Appeals are entitled to compensation for expenses incurred in attending a meeting under Section 1518 of the General Code.

In specific answer to your inquiry, it is my opinion that a board of education may legally pay personal traveling expenses of its clerk when under the direction of said board he travels to Columbus to confer with the Department of Education with reference to the state equalization fund, when such mission is reasonably necessary in view of the facts and circumstances.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1748.

APPROVAL, COOPERATIVE CONTRACTS FOR ROAD IMPROVEMENTS
IN LOGAN COUNTY.

COLUMBUS, OHIO, April 8, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval cooperative contracts between the commissioners of Logan County and the Department of Highways, covering proposal Nos. 1, 2 and 3 of S. H. 130 and S. H. 235, Section "Bellefontaine," Logan County.

Finding said contracts properly executed as to form and legality, I have accordingly endorsed my approval thereon and return the same herewith to you.

Respectfully,

GILBERT BETTMAN,
Attorney General.