

obviously would follow that such an expense as is contemplated by your inquiry should be paid from the county treasury, provided, of course, that the same is legal and properly certified as required by law.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*

---

2430.

DISAPPROVAL, DEFICIENCY BONDS OF CLEARCREEK TOWNSHIP  
RURAL SCHOOL DISTRICT IN AMOUNT OF \$17,000.

COLUMBUS, OHIO, September 21, 1921.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

Re: Deficiency bonds of Clearcreek township rural school district  
in the amount of \$17,000.

GENTLEMEN:—The transcript for the above bond issue discloses that the board of education of Clearcreek township rural school district in authorizing the issuance of said bonds was acting under authority of House Bill 254, which provides for the issuance of deficiency bonds by a school district.

Upon examination of the transcript I find that the financial statement of the accounting officer, which was prepared as of March 1, 1921, is defective in the following particulars:

(1) The debit item in the tuition fund of \$17,000, made up of two obligations secured by notes, one for \$13,000 and the other for \$4,000, should have been listed as unfunded indebtedness under paragraph 2 of section 2 of House Bill 254.

(2) The financial statement fails to contain "an estimate of the amount necessary to provide for the fixed charges and current expenses of the subdivision for the year ending July 1, 1921, including obligations for such 'fixed charges' and 'current expenses' incurred prior to March 1, 1921, and payable within the then current fiscal year" as required by paragraph 3 of section 2 of said house bill.

(3) The financial statement fails to show "the amount of taxes estimated to come into the treasury of such subdivision during the remainder of the year ending July 1, 1921, and applicable to the purposes of such year" as is required by paragraph 4 of section 2 of said house bill.

(4) The financial statement fails to show that the clerk has certified under oath that a deficit exists and the amount thereof as required in paragraph 4, section 2, of said house bill.

(5) It appears also from the transcript that the financial statement prepared by the clerk pursuant to the resolution of the board of education was not sworn to by him until the 16th day of September, 1921, which was subsequent to the date of the passage of the bond resolution.

Paragraph 4, section 2, of said house bill makes it mandatory that the financial statement should be sworn to by the clerk and as the supplying of a financial statement in compliance with the law is a jurisdictional step in the proceedings, the board of education was without authority to pass a bond

resolution until such financial statement properly prepared and verified was before the board.

It also is apparent from the financial statement that the items therein are not entirely correct, as on March 1, 1921, there were doubtless funds in the treasury from taxes received from the February settlement of that year. If there were no such funds at that time the board could not have operated its schools for the remainder of the school year, viz., from and after March 1, 1921, without rendering it necessary for the financial statement to show an estimated deficit for that period.

Inasmuch as no proper financial statement as required by the provisions of said house bill was before the board of education at the time the bond resolution was adopted, the board was without authority to adopt said resolution at that time.

I am therefore of the opinion that the bonds under consideration are not valid obligations of the school district and advise the department of industrial relations not to accept the same.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

---

2431.

**BANKS AND BANKING—SECTION 710-37 G. C. NOT APPLICABLE TO NATIONAL BANKS—SECTION 710-150 G. C. MUST BE COMPLIED WITH IF NATIONAL BANKS TRANSACT A TRUST BUSINESS IN THIS STATE.**

*Section 710-37 G. C. does not apply to national banks, but such banks must meet and comply with the requirements of section 710-150 G. C. if they transact a trust business in this state.*

COLUMBUS, OHIO, September 21, 1921.

*Department of Commerce, Division of Banks, Columbus, Ohio.*

GENTLEMEN:—Your letter of recent date relative to the application of the state bank act to national banks, was duly received.

As I understand it, the question you desire answered is whether or not national banks located and transacting a trust business in Ohio cities having a population in excess of ten thousand must, in addition to complying with section 710-150 G. C., also meet the requirement of section 710-37 G. C. that corporations transacting a trust business in combination with a commercial or savings bank must have a capital of not less than \$100,000 in addition to the capital required by the same section for commercial or savings bank purposes.

Section 710-37 G. C. reads as follows:

“The capital of a commercial or savings bank or a combination of both shall be not less than twenty-five thousand dollars; provided that in cities the population of which exceeds ten thousand such capital shall be not less than fifty thousand dollars.

The capital of a corporation transacting a trust business shall be not less than one hundred thousand dollars and if such business is combined with that of a commercial or savings bank, or a combination