

3584.

APPROVAL, BONDS OF LAFFERTY RURAL SCHOOL DISTRICT, BELMONT COUNTY, OHIO—\$2,379.69.

COLUMBUS, OHIO, December 6, 1934.

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

3585.

APPROVAL, BONDS OF CUYAHOGA COUNTY, OHIO—\$200,000.00.

COLUMBUS, OHIO, December 6, 1934.

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

3586.

APPROVAL, BONDS OF CLEVELAND CITY SCHOOL DISTRICT, CUYAHOGA COUNTY, OHIO—\$9,000.00.

COLUMBUS, OHIO, December 6, 1934.

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

3587.

APPROVAL, BONDS OF CITY OF CANTON, STARK COUNTY, OHIO—\$25,000.00.

COLUMBUS, OHIO, December 6, 1934.

Industrial Commission of Ohio, Columbus, Ohio.

3588.

COSMETOLOGY LAW—FEE PAYABLE WHEN OPERATOR BECOMES
MANAGER AND SECURES LICENSE THEREFOR.

SYLLABUS:

If a cosmetic operator's license has been issued to a person on the payment of

the statutory fee of Three Dollars (\$3.00) and such person during the license year applies for a manager license, the required fee to be paid before the issuance of such manager license is Five Dollars (\$5.00) and no deductions are authorized to be made because of the fee formerly paid for the cosmetic operator's license.

COLUMBUS, OHIO, December 6, 1934.

State Board of Cosmetology, 810 Wyandotte Building, Columbus, Ohio.

MESDAMES:—I am in receipt of your communication which reads as follows:

"It is the desire of the State Board of Cosmetology to receive your formal opinion on the following subjects pertaining to the Cosmetology Law:

I. The renewal license fee for a manager license is Five Dollars (\$5.00) annually. The renewal fee for operator license is Three Dollars (\$3.00) annually. This is in accordance with Section 1082-13 of the General Code of Ohio.

Many operators, who are eligible as managers, are of the opinion that by paying an additional fee of Two Dollars (\$2.00), they may have an operator license changed to a manager license.

This version of the payment of renewal fee conflicts with the opinion of the Bureau of Inspection and Supervision of Public Offices.

Since licenses have been renewed, sixty-nine (69) operators have been licensed as operators by payment of renewal fees of Three Dollars (\$3.00); then on application for manager license and upon payment of an additional fee of Five Dollars (\$5.00) a manager license was issued, making a total of Eight Dollars (\$8.00) to perform beauty services requiring no additional beauty culture education.

Under these conditions, may an operator license be changed to a manager license upon payment of a Two Dollar (\$2.00) fee, making a total of Five Dollars (\$5.00), the required annual fee for a manager license?

II. Since September 28, 1933, upon completion of a beauty culture course in a licensed beauty school, according to Section 1082-6 and 14 of the General Code of Ohio, a temporary license is issued to applicant upon payment of a fee of Five Dollars (\$5.00) which accompanies the application for license by examination. The student, after passing the State Board Examination, is issued an operator license, no additional fee being required. The law further states in Section 1082-5 of the General Code of Ohio, that after 18 months experience as an operator in a licensed beauty shop, the operator is eligible as a manager and a manager license may be issued.

For explanation: If an operator graduates March 30, 1934, a temporary license is issued after application is approved, and after passing the State Board of Examination, which is held in April and October each year, the operator is issued an operator license. On July 1, 1935, the operator license is renewed upon payment of a fee of Three Dollars (\$3.00). After completing 18 months experience, which in this case is August 30, 1935, the operator is eligible for a manager license.

Is no fee, or an additional fee of Two Dollars (\$2.00) or a fee of

Five Dollars (\$5.00) required before issuing a manager license to the applicant; or may the applicant be licensed as a manager by payment of an additional fee of Two Dollars (\$2.00) as in subject 'I'?"

Section 1082-12, General Code, relative to fees, provides:

"The fee for a license as a managing cosmetologist shall be five dollars (\$5.00).

Each applicant for a license and/or for examination for determining his or her fitness to practice cosmetology as an operator, shall pay to the board a fee of five dollars, and for each re-examination (other than a second examination, for which no fee shall be required), a fee of three (\$3.00) dollars.

The fee for examination and/or license as the case may be, as a manicurist shall be five (\$5.00) dollars and for each re-examination (other than a second examination for which no fee shall be required), a fee of three (\$3.00) dollars. * * *

Section 1082-13, General Code, relative to annual license renewal, provides:

"For every licensee as provided in this act, who continues in the actual practice shall, annually, on the first of July, have his or her license renewed by the board, upon the payment of the required renewal fee. Applications for renewal of licenses may be made to the board at any time during the month of June.

The annual renewal fee for each license shall be as follows:

For each managing cosmetologist, the annual fee shall be five dollars (\$5.00).

*For each operator and each manicurist the annual fee shall be three (\$3.00) dollars. * * ** (Italics the writer's.)

The above quoted provisions are the only ones in the Cosmetology Law relative to your inquiries. Since both of your questions relate to these sections of the law I shall consider them together.

No provision whatsoever is made for the transferring of an operator license to a manager license by the payment of the difference in fees. On the other hand, the law expressly provides for a fee of Three Dollars (\$3.00) before an operator license may be issued and Five Dollars (\$5.00) for the issuance of a manager license. After either license has been duly issued by the Board, no provision is made for a refund of the license fee or any part of it even though the operator licensee may become eligible and be desirous of obtaining a manager license and cancelling the operator license during the particular license year. The relevant statutes quoted supra are free from ambiguity and cannot otherwise be construed. See *Ohio Savings and Trust Co. vs. Schneider*, 25 O. App. 259.

Even though a provision for an exchange of licenses to be made by the payment of the difference in fees might be more equitable, such provision would have to be made by the General Assembly and could not be made by a ruling of the State Board of Cosmetology, as the State Board of Cosmetology, like other state boards and public officers, has those powers, and those only, that are placed upon it by statute or are necessarily implied from the powers so expressly given. *State ex rel. vs. Commissioners*, 8 N. P. (N. S.) 281, 20 O. D. (N. P.) 879; affirmed *Ireton vs. State ex rel.*, 12 C. C. (N. S.) 202; 21 O. C. D. 212, 412; af-

firmed without opinion in *Ireton vs. State*, 81 O. S. 562; *State ex rel. vs. Kraft*, 19 O. A. R. 454, 456; *Peter vs. Parkinson, Treas.*, 83 O. S. 36, 49; *Jones, Auditor, vs. Commissioners of Lucas County*, 57 O. S. 189; *Elder vs. Smith, Auditor, et al.*, 103 O. S. 369, 370; *State ex rel. Copeland vs. State Medical Board*, 103 O. S. 369, 370; *Civil Service Commission vs. State, ex rel.*, 127 O. S. 261. Moreover, the State Board of Cosmetology, like other state boards, can only make rules for the purpose of administering the law in accordance with the powers conferred upon it, and cannot by making rules assume powers which it does not have. See *Civil Service Commission vs. State, ex rel.* 127 O. S. 261.

Therefore, in specific answer to both of your questions, it is my opinion that if a cosmetic operator's license has been issued to a person on the payment of the statutory fee of Three Dollars (\$3.00) and such person during the license year applies for a manager license, the required fee to be paid before the issuance of such manager license is Five Dollars (\$5.00) and no deductions are authorized to be made because of the fee formerly paid for the cosmetic operator's license.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

3589.

APPROVAL, BONDS OF VILLAGE OF ASHVILLE, PICKAWAY COUNTY,
 OHIO—\$32,000.00.

COLUMBUS, OHIO, December 6, 1934.

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

3590.

APPROVAL, BONDS OF VILLAGE OF HICKSVILLE, DEFIANCE COUNTY,
 OHIO—\$45,000.00.

COLUMBUS, OHIO, December 6, 1934.

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

3591.

APPROVAL, BONDS OF ELYRIA CITY SCHOOL DISTRICT, LORAIN
 COUNTY, OHIO—\$5,000.00.

COLUMBUS, OHIO, December 6, 1934.

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