

"Five-year and eight-year certificates that were permitted to expire without application for renewal at the time of such expiration may be renewed by the superintendent of public instruction upon proof that the holders thereof have taught successfully for five years."

This part of that section was placed therein in the same act where the amendment occurs in 109 O. L. 189 to section 7821-2 G. C.

The conclusion, therefore, follows that your question is answered in the negative by force of the provisions of the statutes as above quoted.

Respectfully,

C. C. CRABBE,

*Attorney General.*

1292.

#### BOARD OF EDUCATION—HOW VACANCY IS FILLED.

##### **SYLLABUS:**

*A vacancy in a county board of education can only be filled in accordance with the provisions of section 4748, which provides that such vacancy shall be filled by a majority vote of all the remaining members of the board.*

COLUMBUS, OHIO, March 20, 1924.

HON. VERNON M. RIEGEL, *Director of Education, Columbus, Ohio.*

DEAR SIR:—Yours of recent date received, in which you submit the following inquiry:

"There is a vacancy in the county board of education which has existed for a long time. The board is dead-locked and cannot make a choice of a fifth member. Under such circumstances how many this vacancy be filled?"

The question you present is covered by sections 4729 and 4748, General Code of Ohio, which read as follows:

"*Sec. 4729.* At the regular election of township and municipal officers in 1921 the qualified electors of each county school district in the state shall elect three members of the county board of education to succeed the three members having the shortest time to serve when this act goes into effect and to serve for four years from the third Saturday of January, 1922, and every four years thereafter their successors shall be elected in like manner for a term of four years. At the regular election of township and municipal officers in 1923 the qualified electors of each county school district shall elect two members of the county board of education to succeed the two remaining members of the board not chosen by popular vote and to serve for four years from the third Saturday of January, 1924, and every four years thereafter their successors shall be elected in like manner to serve for a term of four years."

"*Sec. 4748.* A vacancy in any board of education may be caused by death, non-residence, resignation, removal from office, failure of a person

lected or appointed to qualify within ten days after the organization of the board or of his appointment, removal from the district or absence from meetings of the board for a period of ninety days, if such absence is caused by reasons declared insufficient by a two-thirds vote of the remaining members of the board, which vote must be taken and entered upon the records of the board not less than thirty days after such absence. Any such vacancy shall be filled by the board at its next regular or special meeting, or as soon thereafter as possible, by election for the unexpired term. A majority vote of all the remaining members of the board may fill any such vacancy."

Inasmuch as section 4748 is the only section in any wise applying to the filling of a vacancy in a county board of education, I am of the opinion that such a vacancy can only be filled in compliance with the provisions of such section, that is, such vacancy may be filled by a majority vote of all the remaining members of the board.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

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1293.

APPROVAL, OIL AND GAS LEASE TO THE EMPIRE GAS AND FUEL COMPANY, FIFTY ACRES OF LAND SITUATED IN HOLMES COUNTY, SECTION 27, TOWNSHIP 14, RANGE 13, BEING PART OF CIVIL TOWNSHIP OF PRAIRIE OF HOLMES COUNTY.

COLUMBUS, OHIO, March 20, 1924.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval an oil and gas lease granted by you to The Empire Gas and Fuel Company, upon fifty acres of land situated in the County of Holmes, Section 27, Township 14, Range 13, being a part of the civil township of Prairie of said county.

Finding said lease in proper legal form, I have this day noted my approval thereon and return the same herewith to you.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*