

tary, he may very properly be said to be "engaged in the performance of (his) duties under this act" as a board member, and entitled to his per diem compensation.

Summarizing and in specific answer to your questions, it is my opinion that:

1. A member of the State Board of Examiners of Architects is entitled to be paid ten dollars per diem while actually engaged in carrying out the instructions of the board in the performance of the duties imposed upon such members by House Bill 282 of the 89th General Assembly.

2. The annual salary provided for the secretary of the board in Section 1334-2, General Code, is in addition to and not in lieu of the per diem compensation provided for the various members of such board.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3859.

TOWNSHIP TRUSTEES—UNAUTHORIZED TO PURCHASE GROUP INSURANCE FOR MEMBERS OF VOLUNTEER FIRE COMPANY.

SYLLABUS:

A board of township trustees may not legally spend money for the purpose of purchasing group insurance for the members of the volunteer fire department.

COLUMBUS, OHIO, December 16, 1931.

HON. RAYMOND E. LADD, *Prosecuting Attorney, Bowling Green, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication requesting my opinion on the following:

"The Board of Trustees of Perrysburg Township are desirous of purchasing group insurance for members of their Volunteer Fire Department.

I informed them it was my opinion inasmuch as they were an administrative board that such expenditures would in my opinion be illegal, as your Department has ruled on numerous occasions that Volunteer Fire Department members are employes and protected under the Workmen's Compensation Act.

I have found numerous opinions to the effect that Villages and municipalities may purchase group insurance for their firemen, but no opinion as to the right of a Board of Township Trustees to furnish such protection for their firemen. I am not unmindful of an opinion by the Attorney General's office that a Board of Education could not purchase group insurance for its teachers, but find that your Department has also recently held that a Board of Trustees may pur-

chase liability insurance on trucks and other machinery owned by said Board.

As there was no opinion in point the Trustees wished to have your opinion on the matter."

The opinion to which you refer, in which it was held that a board of education cannot purchase group insurance for its teachers, which is found in Opinions of the Attorney General for the year 1929, page 1716, contained a rather comprehensive discussion of the subject of group insurance and the relative powers of administrative boards as contradistinguished from the powers of municipal legislative authority. In said opinion reference was made to an opinion found in Opinions of the Attorney General for the year 1927 at page 48, and an opinion found in Opinions of the Attorney General for the year 1928 at page 1099.

In the former opinion, last above mentioned, it was held that unless forbidden by its charter the legislative authority of a municipal corporation may, as a part of the compensation of its employes, legally authorize group insurance on behalf of any or all of the employes of such municipality.

In the second opinion, last above mentioned it was held that the legislative authority of a village may, as a part of the compensation to its employes, legally authorize group indemnity insurance, and pay the premium therefor from public funds.

However, an examination of said opinions will disclose that the conclusion therein reached was based upon the so-called Home Rule powers granted to municipalities by reason of Section 3 of article XVIII of the Constitution of Ohio. It will therefore be seen that the opinions relating to the powers of municipalities would in nowise support the conclusion that township trustees could exercise similar powers.

In my 1929 opinion, hereinbefore referred to, it was pointed out that administrative boards and public officers created by statute are strictly limited to the powers expressly granted to them, with such implied powers as are necessary to carry into effect the express powers so granted. In said opinion the case of *State, ex rel. The A. Bentley and Sons Company vs. Pierce, Auditor*, 96 O. S. 44, was cited wherein it was stated in the third branch of the syllabus that:

"In the case of doubt as to the right of any administrative board to expend public moneys under a legislative grant, such doubt must be resolved in favor of the public and against the grant of power."

Also the case of *State, ex rel. Clarke, vs. Cook, Auditor*, 103 O. S. 465, was referred to in said opinion, which held in substance that boards of education and other similar governmental bodies are limited in the exercise of their powers of such as are clearly and distinctly granted. The case of *Schwing vs. McClure*, 120 O. S. 335, was also cited in my said opinion as supporting the proposition of law referred to in the Cook case, supra.

Section 3298-54, General Code, provides:

"Township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives

of the citizens against damages and accidents resulting therefrom, and when a volunteer fire company has been organized for service in the township, of such character as to give assurance of permanency and efficiency, may purchase and provide, for the use of such company, such fire apparatus and appliances as may seem to the trustees advisable, in which event they shall provide for the care and maintenance thereof, and for such purpose, may purchase, lease or construct and maintain necessary buildings; and they may establish and maintain lines of fire alarm telegraph within the limits of the township."

* * *

The following sections of the General Code provide for the levy of taxes, issuance of bonds, etc., in order to carry out the provisions of Section 3298-54, General Code. Section 3298-60, General Code, expressly provides that the trustees of a township may enter into a contract for a period not to exceed three years with any city, village or township for the use of its fire department and fire apparatus.

It is believed that when the principles enunciated in the cases cited in my 1929 opinion, hereinbefore referred to, are applied to the question you present, the conclusion is irresistible that township trustees may not purchase group insurance for the members of its volunteer fire department. The powers of the township trustees are expressly set forth and it is believed that by no process of reasoning can the conclusion be reached that it would be necessary to enter the field of group insurance for the volunteer fire department in order to carry into effect any of the express powers granted to the township trustees with reference to protection against fire.

You are therefore specifically advised that it is my opinion that the board of township trustees may not legally spend money for the purpose of purchasing group insurance for the members of the volunteer fire department.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3860.

STATUTE OF LIMITATIONS—FOUR YEAR STATUTE APPLICABLE TO SUITS TO ENJOIN COLLECTION OF SPECIAL ASSESSMENTS—MUNICIPALITY LIMITED TO TWO YEARS IN COLLECTION OF SUCH ASSESSMENTS.

SYLLABUS:

The four year statute of limitations provided by section 11224 of the General Code is applicable to and will bar an injunction suit when four years shall have elapsed after such installments became payable.

Section 11222 of the General Code has no application to an action for the collection of special assessments by a municipality. Actions brought by a municipality to collect such special assessments are limited to two years by section 3906 of the General Code.