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SYLLABUS:

1. There is no provision in Sections 3317.02 and 3317.051, Revised Code, or elsewhere, by which a joint vocational school district created pursuant to Section 3311.16, et seq., Revised Code, may be allotted state funds.

2. A joint vocational school district is an entity in itself separate and apart from any other school district, and a bond issue submitted to the electors of a joint vocational school district under Section 3311.20, Revised Code, does not create an indebtedness in any other school district.

3. In view of the provisions of Sections 3311.21 and 5705.21, Revised Code, a joint vocational school district may issue notes for one-half of the anticipated revenue of a tax levy, voted for a specified period of years not exceeding ten, for the purpose of erecting or enlarging buildings and purchasing equipment.

4. Under Section 3311.16, Revised Code, a joint vocational school district covers the territory of two or more school districts within a county, and there is no requirement that said school districts be contiguous.

5. Under Section 3327.04, Revised Code, the board of education of a city, exempted village or local school district may contract with the board of a joint vocational school district for the transportation of pupils to the schools of said joint vocational school district; and where such a contract is made, the state board of education may include the number of pupils transported thereunder in its determination of transportation costs allowed to said city, exempted village or local school district under Section 3317.051, Revised Code.

Columbus, Ohio, October 9, 1962

Hon. E. E. Holt, Superintendent of Public Instruction
Department of Education, Columbus 15, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"A number of counties have indicated an interest in the development of joint vocational school districts under the provisions of House Bill 620, which became effective October 26, 1961. Surveys are being conducted in five counties to determine the possibilities for the establishment of joint vocational school districts in these counties.

"In planning to establish joint vocational school districts under the new law, questions have been raised by school administrators and representatives of the State Department of Education concerning certain provisions of the law.

"The questions are as follows:

1. What state funds may be allotted to a joint school district for the additional vocational units that accrue to it?
2. Can a bond issue for buildings and equipment be submitted to a vote in joint vocational school district which may be established when such a bond issue would place the bonded indebtedness of one or more of the participating school districts above the nine per cent debt limitation?
3. Can notes be issued for one-half of the total anticipated revenue of a tax levy, voted for a specified period of years not exceeding ten for the purpose of erecting or enlarging buildings and purchasing equipment?
4. Can a joint vocational school district include school districts which are not contiguous to each other but are still within the county?

5. What transportation allowances can be made to constituent district for the transportation of students from such district to the joint vocational school?"

Amended Substitute House Bill No. 620 of the 104th General Assembly, effective October 26, 1961, amended Sections 3311.16 to 3311.21, inclusive, and enacted Sections 3311.211 to 3311.217, inclusive, Revised Code, to provide for the establishment of joint vocational school districts.

Under the procedure, a joint vocational school district covers the territory of two or more school districts within a county (Section 3311.16, Revised Code), and the county board of education of the county in which the vocational school district is located has the management and control of the vocational school district (Section 3311.19, Revised Code). Said Section 3311.19 further provides that "a joint vocational school district board of education shall have the same powers, duties, and authority for the management and operation of such joint vocational school district as is granted by law to a board of education of a local school district." Thus, the joint vocational school district is clearly an entity separate and apart from any other school district.

Coming to your first question, Section 3317.02, Revised Code, provides for state school foundation funds to be paid to each local, exempted village and city school district which has a tax levy for current school operation for the current calendar year of at least ten mills. The section contains no provision for payment of funds to a joint vocational school district. Also, Section 3317.051, Revised Code, provides for payments to each local, exempted village and city school district for necessary transportation costs, but again there is no provision for payment of funds to a joint vocational school district.

Your reference to additional vocational units accruing to a joint vocational school district entails a consideration of Section 3311.214, Revised Code, which reads as follows :

"Pupils in a joint vocational school district continue to be enrolled in the school district of their school residence and should be considered as such in the allocation of units under Chapter 3317. of the Revised Code, but the additional vocational units provided for under such Chapter shall accrue to the joint vocational school district."

The language of Section 3311.214, *supra*, implies that the operation of schools in a joint vocational school district results in additional voca-

tional units being accredited, presumably to the local, exempted village or city school districts in which the schools of the joint vocational school district are located. If so, this would mean that local, exempted village or city school districts would receive additional funds under Section 3317.02, Revised Code, specifically division (B) thereof; and it might then be argued that because of Section 3311.214, *supra*, such additional funds should be paid to the joint vocational school district.

It is my opinion, however, that the local, exempted village and city school districts in which the schools of the joint vocational school district are located do not gain additional funds under Chapter 3317., Revised Code, by reason of such location. Division (B) of Section 3317.02, *supra*, provides one of the factors used in determining the allocation of state school funds, reading:

“(B) Plus seventeen hundred dollars multiplied by the total number of approved teacher units credited to such district under section 3317.05 of the Revised Code, for other current expenses;”

As to teacher units, Section 3317.05, Revised Code, reads, in part, as follows:

“The total number of approved teacher units for each school in each city, exempted village, and local school district shall be calculated in the following manner:

“* * * * * * * * *”

“(U) Each vocational education unit or fraction thereof *maintained by such school district* and approved annually by the state board of education, shall be counted as one approved teacher unit or fraction thereof;

“* * * * * * * * *”

Emphasis added)

While under division (U) of Section 3317.05, *supra*, a city, exempted village or local school district is allowed teacher units for vocational education units maintained by such a district, a city, exempted village or local school district would not maintain the vocational education units of the joint vocational school district. As noted earlier, the joint vocational school district is an entity in itself, not a part of any other school district, and would maintain its own vocational units. It follows, therefore, that local, exempted village and city school districts in which schools of a

joint vocational school district are located do not gain additional teacher units, and consequently additional state funds, by reason of such location.

Accordingly, in specific answer to your first question, I have found no procedure by which state funds may be allocated to a joint vocational school district.

Your second question relates to bond issues. In this regard, Section 3311.20, Revised Code, reads as follows:

“A joint vocational school district board of education by a vote of at least two-thirds of its full membership may at any time submit to the electors of the joint vocational school district the question of issuing bonds of such district for the purpose of paying the cost of purchasing a site or enlargement thereof, and for the erection and equipment of buildings, or for the purpose of enlarging, improving, or rebuilding thereof, and also the necessity of a levy of a tax outside the limitation imposed by Section 2 of Article XII, Ohio Constitution, to pay the interest on and retire such bonds. The proceedings for such election and for the issuance and sale of such bonds shall be the same as required of a board of education by sections 133.01 to 133.65, inclusive, of the Revised Code, provided that such bond issue may be submitted to the electors and such bonds may be issued for any one or more improvements which the district is authorized to acquire or construct notwithstanding the fact that such improvements may not be for a single purpose under Section 133.10 of the Revised Code. The voting requirements for approval of the question of issuing bonds under this section shall be the same as required by the provisions of section 133.18 of the Revised Code. On approval of such question, the joint vocational school district board of education may proceed with the issuance of such bonds and the levy of a tax outside a ten-mill limitation, sufficient in amount to pay the interest on and retire such bonds at maturity. Notes may be issued in anticipation of such bonds as provided in section 133.32 of the Revised Code.

“The auditor of the county in which the joint vocational school district is located shall certify the average annual levy necessary to pay the interest on and retire such bonds as provided in section 133.09 of the Revised Code; the board of elections of such county shall make the necessary arrangements for the submission of the question to the electors of the district; and the joint vocational school district board of education shall be the taxing authority of the district as this term is used in sections 133.01 to 133.65, inclusive, of the Revised Code.”

As to the nine per cent limitation, Section 133.04, Revised Code, reads, in part, as follows:

“* * * * * * * * *

“The net indebtedness created or incurred by any school district shall never exceed nine per cent of the total value of all property in any school district as listed and assessed for taxation, provided that bonds shall not be submitted to popular vote in an amount which will make the net indebtedness after the issuance of such bonds exceed four per cent of the total value of all property in such school district as listed and assessed for taxation, unless the department of taxation consents thereto, and provided further that bonds shall not be submitted to popular vote in an amount which will make the net indebtedness after the issuance of such bonds exceed six per cent of the total value of all property in such school district as listed and assessed for taxation unless the state board of education also consents thereto.

“* * * * * * * * *”

Clearly, when a joint vocational school district issues bonds of the district, such bonds become a debt only of that district and could have no effect on the bonded indebtedness of any other school district.

I note, however, that when a joint vocational school district is dissolved, the constituent school districts assume the outstanding indebtedness of the joint vocational school district. In this regard, Section 3311.217, Revised Code, provides:

“A joint vocational school district may be lawfully dissolved by a vote of a majority of the full membership of a board of education of the joint vocational school district at any regular meeting or by a vote of the majority of the participating boards of education.

“On such dissolution, the joint vocational school district board of education shall make an equitable adjustment, division, and disposition of the assets, property, debts, and obligations of the joint vocational school district, and the tax duplicate of each constituent school district shall be bound for and assume its share of the outstanding indebtedness of the joint vocational school district, as determined by the board of education of the joint vocational school district.”

The question of dissolution is not here present, however, and should not affect the issuance of bonds by the joint vocational school district.

Regarding the issuance of notes in anticipation of a tax levy, your third question, Section 3311.21, Revised Code, reads as follows:

“The board of education of the joint vocational school district by a vote of two-thirds of its full membership may at any time adopt a resolution declaring the necessity to levy a tax in

excess of the ten-mill limitation, for a specified period of years not exceeding ten, to provide funds for the purpose of purchasing a site or enlargement thereof and for the erection and equipment of buildings, or for the purpose of enlarging, improving, or rebuilding thereof, or for the purpose of providing for the current expenses of the joint vocational school district. Such resolution shall specify the amount of the proposed additional rate. On the adoption of such resolution the joint vocational school district board of education shall certify such resolution to the board of elections of the county in which such joint vocational school district is located which shall place the question upon the ballot at the next primary or general election occurring not less than thirty days after receiving such resolution from the joint vocational school district board of education, or at a special election to be held at a time designated by such joint vocational school district board of education, which date shall not be earlier than twenty-five days after the adoption and certification of such resolution nor later than one hundred and twenty days thereafter.

“The board of elections of the county in which the joint vocational school district is located shall cause to be published in a newspaper of general circulation in such district an advertisement of the proposed tax levy question together with a statement of the amount of the proposed additional levy once each week for three weeks, immediately preceding the election at which the question is to appear on the ballot.

“If a majority of the electors voting on the question of levying such tax in an election held on the first Tuesday after the first Monday in November vote in favor thereof, the levy shall be approved; the voting requirements at primary and special elections for approval of the question of levying such tax shall be the same as required by the provisions of section 5705.21 of the Revised Code. On approval of such levy, the joint vocational school district board of education shall annually make the levy within such district at the additional rate, or at any lesser rate, and the county auditor shall annually place such levy on the tax duplicate. Notes may be issued in anticipation of the proceeds of such levy as provided in section 5705.21 of the Revised Code.”

Section 5705.21, Revised Code, referred to in Section 3311.21, *supra*, reads, in part, as follows:

“* * * After the approval of such levy vote and prior to the time when the first tax collection from such levy can be made, the board of education of the school district *may anticipate a fraction of the proceeds of such levy and issue anticipation notes in an amount not exceeding fifty per cent of the total estimated proceeds of the levy throughout its life.*

“Such notes shall be sold as provided in sections 133.01 to 133.65, inclusive, of the Revised Code. If such anticipation notes are issued, they shall mature serially and in substantially equal amounts during each year of the life of the levy; and if such notes are issued, the amount necessary to pay the interest and principal as they mature shall be deemed appropriated for such purposes from such levy, and appropriations from such levy by the board of education of the school district shall be limited each year to the balance available in excess of such amount.” (Emphasis added)

In view of the provisions of Sections 3311.21 and 5705.21, *supra*, I answer your third question in the affirmative.

As to your fourth question, Section 3311.16, Revised Code, refers to the establishment and operation of a joint vocational school district “covering the territory of two or more school districts within such county,” but does not state whether the territory of the joint vocational school district must be contiguous. The implication is, however, that the territory of any school district in the county may be included in the joint vocational school district, regardless of whether the territory is contiguous. In this regard, Section 3311.18, *supra*, reads as follows:

“Subject to the consent of the board of education of each school district whose territory is proposed to be included within a joint vocational school district, the initiating board of education may create a joint vocational school district within the county, composed of the territory of all the school districts whose boards of education have approved the formation of the joint vocational school district. The effective date for the establishment of such district shall be designated by the initiating board of education. A school district shall not lose its separate identity or legal existence by reason of becoming a part of a joint vocational school district.”

Also, Section 3311.213, Revised Code, reads in part:

“With the approval of the board of education of a joint vocational school district which is in existence, any other school district in the county may become a part of the joint vocational school district. * * *”

On the other hand, Section 3311.06, Revised Code, reads in part:

“The territory included within the boundaries of a city, local, exempted village, or joint vocational school district shall be contiguous except where a natural island forms an integral part of the district.

“* * * * * * * * *”

Section 3311.06, *supra*, was not a part of Amended Substitute House Bill No. 620, *supra*, which created the present law on joint vocational school districts, effective October 26, 1961. Prior to that date, Section 3311.16, et seq., Revised Code, provided for joint vocational school districts, but under the then existing Section 3311.16, Revised Code, only adjoining school districts could unite to form a joint vocational school district. Thus, Section 3311.06, *supra*, was consonant with the law applying to joint vocational school districts prior to October 26, 1961, and was clearly intended to apply to districts formed under that prior law. I might also note that said prior law provided for a much different type of district than is found under the present law.

It is true that the legislature did not see fit to amend Section 3311.06, *supra*; but in view of the clear provisions of Sections 3311.18 and 3311.213, *supra*, allowing *any* school district in the county to become a part of the joint vocational school district, that failure appears to have been a mere oversight. In any event, however, the provisions of said Sections 3311.18 and 3311.213 constitute the latest expression of the legislature on the subject and should take precedence.

Accordingly, I conclude that a joint vocational school district covers the territory of two or more school districts within a county, and there is no requirement that said school districts be contiguous.

Coming to your last question, Section 3317.051, Revised Code, reads as follows:

“The total amount of money approved for transportation operating costs for each local, exempted village and city school district, in which transportation of pupils is necessary, shall be determined on the basis of a formula adopted by the state board of education and in accordance with the rules and regulations prescribed by it to secure an efficient and economical program of pupil transportation. The number of pupils transported, the total number of miles traveled and other factors beyond the control of the board of education of each school district shall be considered in the formulation of such rules and regulations and in the adoption and application of such formula in determining the amount of money to be included for pupil transportation in each district as a part of the school foundation program. All rules, regulations and formulas adopted by the state board of education as prescribed by this section shall be submitted to and approved by the state controlling board before the computed amounts for school transportation are included in calculating the school foundation program for each district.

“The state board of education shall certify each year to the clerk of the board of education of each local, exempted village and city school district the amount of the approved transportation costs for such district.”

As noted earlier, Section 3317.051, *supra*, provides for payment of transportation costs only to local, exempted village and city school districts. Your question raises the point whether local, exempted village or city school districts may transport their students to and from the schools of the joint vocational school district, which schools are located in the local, exempted village and city school districts, and be paid transportation costs therefor.

It will be noted that the amount of money which a particular school district will receive as transportation costs is based on a formula adopted by the state board of education (Section 3317.051, *supra*). In the adoption of such formula the board is required to consider the number of pupils transported, the total number of miles traveled and other factors beyond the control of the board of education of the school district.

Section 3327.01, Revised Code, pertaining to transportation of pupils, reads as follows:

“In all city, exempted village, and local school districts where resident elementary school pupils live more than two miles from the school to which they are assigned the board of education shall provide transportation for such pupils to and from school except when, in the judgment of such board confirmed, in the case of a local school district, by the county board of education, or, in the case of a city or exempted village school district, by the judge of the probate court, such transportation is unnecessary.

“In all city, exempted village, and local school districts the board may provide transportation for resident high school pupils to the high school to which they are assigned.

“In all city, exempted village, and local school districts the board shall provide transportation for all children who are so crippled that they are unable to walk to the school to which they are assigned. In case of dispute whether the child is able to walk to the school or not, the health commissioner shall be judge of such ability.

“When transportation of pupils is provided the conveyance shall be run on a time schedule that shall be adopted and put in force by the board not later than ten days after the beginning of the school term.”

Section 3327.01, *supra*, deals only with transportation of pupils to the schools of the district; however, Section 3327.04, Revised Code, reads, in part, as follows:

“The board of education of any city, exempted village, or local school district may contract with the board of another district for the admission or transportation, or both, of pupils of any school in such other district, on terms agreed upon by such boards. * * *”

Accordingly, the particular local, exempted village or city school district may contract with the board of the joint vocational school district for the transportation of pupils to the schools of the joint vocational school district; and where such a contract is made, the state board of education may include the number of pupils transported thereunder in its determination of transportation costs of the district in question under Section 3317.051, *supra*. In this regard, it is assumed that the state board in determining the allowance for such transportation costs will consider the terms of the agreement and whether the district furnishing the transportation has already been adequately compensated therefor.

In summary, it is my opinion and you are advised:

1. There is no provision in Sections 3317.02 and 3317.051, Revised Code, or elsewhere, by which a joint vocational school district created pursuant to Section 3311.16, et seq., Revised Code, may be allotted state funds.
2. A joint vocational school district is an entity in itself separate and apart from any other school district, and a bond issue submitted to the electors of a joint vocational school district under Section 3311.20, Revised Code, does not create an indebtedness in any other school district.
3. In view of the provisions of Section 3311.21 and 5705.21, Revised Code, a joint vocational school district may issue notes for one-half of the anticipated revenue of a tax levy, voted for a specified period of years not exceeding ten, for the purpose of erecting or enlarging buildings and purchasing equipment.
4. Under Section 3311.16, Revised Code, a joint vocational school district covers the territory of two or more school districts within a county, and there is no requirement that said school districts be contiguous.

5. Under Section 3327.04, Revised Code, the board of education of a city, exempted village or local school district may contract with the board of a joint vocational school district for the transportation of pupils to the schools of said joint vocational school district; and where such a contract is made, the state board of education may include the number of pupils transported thereunder in its determination of transportation costs allowed to said city, exempted village or local school district under Section 3317.051, Revised Code.

Respectfully,

MARK McELROY

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