

the commission to which you refer states that the appointment is for the unexpired term does not change the statutory law on the subject, and I am therefore of the opinion that such appointee can only hold the office until the election and qualification of a successor of the deceased commissioner at the November election in 1928. It is my opinion that it would be well to have the bond of the appointee comply with the law as thus expressed, although I am of the opinion that the bond would not be invalid if such change were not made.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

947.

BOARDS OF EDUCATION—BOARDS OF ADJOINING SCHOOL DISTRICTS MAY AGREE UPON COST OF JOINT HIGH SCHOOL—NEEDS AFFIRMATIVE VOTE OF 55% OF EACH DISTRICT.

SYLLABUS:

1. *By virtue of the provisions of Section 7669 of the General Code, boards of education of two or more adjoining school districts may agree upon the cost of the construction of a joint high school and the bonds issued for the purpose of such construction need not be in proportion to the tax valuation of the respective districts.*

2. *In submitting the question of a bond issue for the construction of a high school under the provisions of Section 7669, General Code, the ballot should set forth the amount of bonds to be issued by the respective districts and an affirmative vote of at least fifty-five per cent of those voting upon the proposition must be had in each of the districts.*

COLUMBUS, OHIO, September 3, 1927.

HON. SETH PAULIN, *Prosecuting Attorney, Painesville, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter, as follows:

“The Boards of Education of the Willoughby Rural School and the Willoughby Village School District have heretofore by a majority vote of the full membership of each board united said districts for high school purposes under Section 7669 of the General Code.

It is now necessary to submit to the electors the proposition of issuing bonds to enlarge the joint high school building at an estimated cost of \$100,000.00, and the Boards of Education of the respective school districts are willing to enlarge the present Joint High School Building by each paying \$50,000.00 of the cost of the proposed enlargement.

The tax valuation of the Willoughby Village School District for the year 1926 as listed for taxation is \$7,697,960.00, while the tax valuation of the Willoughby Rural School District for the year 1926, as listed for taxation is \$13,635,150.00.

The precise question I have in mind is first, can the respective Boards of education without reference to the tax valuation arbitrarily agree as to the respective amounts each district will contribute to the proposed enlargement

and in compliance with the provisions of House Bill No. 1, enacted by the 87th General Assembly, submit the proposition of issuing bonds in the sum of \$50,000.00 to the electors of their respective districts, or is the proportion of the amount of \$100,000.00, which is the estimated amount required to enlarge the building as governed by the respective tax valuation of the two districts, required to be separately submitted to the electors of each district?

Second, in either event, that is, in the event that the Boards arbitrarily agree upon the distribution of the cost equally between them or in the event they must submit the proposition of issuing bonds in proportion to the total valuation of property in the respective districts, must each Board submit to the electors of their respective districts, the question of the issuance of bonds for the total amount of \$100,000.00, or must it be submitted to the respective districts in the amount to be issued by that district?

I am of the opinion that the provisions of House Bill No. 1, now govern the proceedings in the issuing of all bonds, whereas in this instance the proposition might be submitted to the electors of the districts, and find from an examination of former opinions of the Attorney General, especially Opinion No. 1730, 1916, wherein said opinion quoted from page 1103 of the Opinions of the Attorney General reads as follows:

'Sections 7661 and 7662, G. C., 104 O. L., 225, refer only to the maintenance and support of the high school of such united districts and have no application to the purchasing of a site or the erection of a building for high school purposes, as authorized in said Section 7669, G. C., supra.'

This quotation would seem to indicate the board of education may arbitrarily agree as to the amount that each shall bear in the purchasing of a site or the erection of a school house, and this opinion was given in response to a question similar to the one at hand.

To the same effect in the opinion of the Attorney General in 1917, as found in Vol. 1, page 247, which opinion was rendered by Joseph McGhee, your predecessor in office, as found on page 248, and as will be noted quoting from the opinion on page 248:

'As far as your question is concerned, I am inclined to view the provisions of Section 7669 authorizing each board of education to submit the question of a tax levy on the property of each district for the purpose of purchasing a site for and erecting a high school building, and requiring such question to carry in both districts before becoming operative in either, expend their force on the further provisions of Section 7669 authorizing the issue of bonds for such purposes. This language of Section 7669 as to a tax levy and the issue of bonds for the purpose of purchasing a site for and erecting a high school building must be read together, and so read this section clearly authorizes the board of education of each school district united with another for high school purposes to submit to the electors thereof the question of an issue of bonds for the purpose of purchasing a site for and erecting a high school building for the use of the joint district, and a tax levy therefor, it being the duty of each board to determine the amount of the bond issue to be submitted to the electors of its district; and the bond issue question would have to carry in both districts before a favorable vote in either would go into effect.'

The opinion of the Attorney General rendered on May 19, 1919, Opinion 275, found in Vol. 1, page 483, seems to be in conflict with the former opinions of the Attorney General and under this opinion it would be incumbent upon the Board of Education to submit the proposition to the people residing in the joint districts and especially in view of the conclusion of the Attorney General, which evidently regards the construction of buildings as governed

by Section 7671 and as quoted in paragraph at page 485, which is quoted herewith:

"Therefore, as all taxes must be uniform, as the district when established under Section 7669 is one district, and no express authority is given by the statute for the board of the township and the board of the village agreeing upon the amount the township and the village shall use in erecting buildings or purchasing a site, it is my opinion that the same must be borne in proportion to the total valuation of property in the respective districts, and levied in the manner provided in Section 7628 of the General Code."

Inasmuch as the boards of these two districts desire to submit this proposition to the electors at the coming election, I would appreciate it if you could give me an opinion on this point so that we may have it on hand September 6th."

Section 7669 of the General Code provides:

"The boards of education of two or more adjoining school districts, by a majority vote of the full membership of each board, may unite such districts for high school purposes. Each board also may submit the question of levying a tax on the property in their respective districts for the purpose of purchasing a site and erecting a building, and issue bonds, as is provided by law in case of erecting or repairing school houses; but such question of tax levy must carry in each district before it shall become operative in either. If such boards have sufficient money in the treasury to purchase a site and erect such building, or if there is a suitable building in either district owned by the board of education that can be used for a high school building it will not be necessary to submit the proposition to vote; and the boards may appropriate money from their funds for this purpose."

Your first question is whether two school districts, the boards of which have agreed to unite for high school purposes, may further agree as to the respective contributions to the construction of the school house upon an arbitrary basis and irrespective of the tax valuations of the districts.

While the opinions of the Attorney General, to which you have referred, are inconsistent, I call your attention to the later opinion found in Opinions of the Attorney General for 1926, at page 592, the first branch of the syllabus of which is as follows:

"Under Section 7669 of the General Code the amount raised by a tax levy or bond issue for the purpose of erecting a joint district high school need not be in proportion to the tax valuation of the respective districts."

In this opinion, after quoting Section 7669, it is stated:

"It will be noted that no provision is made in this section as to the relationship that shall exist between the tax levies made by the school districts which have joined for high school purposes. That is left to the discretion of the boards uniting for such high school purposes and to the vote of the electors to whom the question of levying the tax is submitted."

These views are in accord with those expressed in the 1917 opinion which you quote and I feel the conclusions reached are proper. You are therefore advised that the respective boards of education may properly agree upon the proportion of the

total cost of the construction of the joint high school, which proportions need not be in accord with the respective tax valuation of the districts.

Your second inquiry is whether each board must submit to its respective district the question of the issuance of the bonds for the total amount of \$100,000, or the amount to be issued by the individual district.

I feel that the voters of the individual districts should be apprised of the exact amount of the bonds which will be issued and outstanding against their particular districts and it necessarily follows that the proportionate amount and not the aggregate should appear upon the ballot. This is especially true in view of the fact that House Bill No. 1 contemplates that the voters be fully advised of the character of the improvement, the amount of the bonds to be issued, for which a tax levy is to be made against them, and the approximate amount of such tax levy. The ballot, of course, may be aptly worded so as to indicate that the \$50,000 is a part of a \$100,000 improvement undertaken by the districts jointly. In all events, the amount to be issued by the respective districts should be clearly set forth in the ballot.

You will observe that Section 7669 authorizes the issuance of bonds and the levying of taxes upon approval of the electors of each district by what is apparently a majority vote. It is my opinion that a majority vote would no longer authorize these bonds in view of the provisions of House Bill No. 1, particularly Section 2293-23, which provides for a fifty-five per cent vote in order to authorize the issuance of bonds. This section, being later than Section 7669 of the General Code, repeals such of the provisions of that section as are inconsistent therewith, and I therefore feel that a fifty-five per cent vote of the electors in each district is necessary.

I note that in the case which you mention the joint high school building has evidently been in use for some time and the proposed bond issue is for the purpose of enlarging this structure. It is possible that the doubt existing in your mind is due to the provisions of Section 7671, to the effect that the funds for the maintenance and support of the joint high school shall be provided by appropriations by each district in proportion of the total valuation of each property in the respective districts. I feel, however, that the enlargement of the building is the equivalent of a new structure and that such construction cannot be in any sense held to be maintenance or support. Such enlargement, therefore, is governed by the same rules as are applicable to the building of an original joint high school.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

948.

#### REGISTRATION OF ELECTORS—OPENS AND CLOSES ON EASTERN STANDARD TIME.

##### SYLLABUS:

*By virtue of the provisions of Section 5979, General Code, the standard of time governing the hours for registration of electors is eastern standard time.*

COLUMBUS, OHIO, September 3, 1927.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Permit me to acknowledge receipt of your request for my opinion, as follows: