

"If such district superintendent refuses to make such nomination, 'majority vote' as used in this instance means the majority of the full membership of the board of education and not merely the majority of those members who happen to be present at the particular meeting to which such agreement is sought to be entered into."

I am therefore of the opinion, in specific answer to your question, that it is possible for a village or rural centralized school district to employ a teacher for the schools of the district who has not first been nominated by the county or assistant county superintendent of schools. This may be done by a majority vote of the full membership of the board.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2041.

APPROVAL, BONDS OF BIG ISLAND TOWNSHIP, MARION COUNTY,
OHIO—\$3,600.00.

COLUMBUS, OHIO, June 28, 1930.

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

2042.

BOND FUND—WHERE UNEXPENDED BALANCE TRANSFERRED—SUCH
BALANCE EXCEEDING PRINCIPAL AND INTEREST PAYMENTS
DUE ON BONDS FOR GIVEN YEAR—EXCESS MAY NOT BE APPLIED
TO OTHER ISSUES—EXCEPTION.

SYLLABUS:

The unexpended balance in a bond fund which is no longer needed for the purpose for which such fund was created shall be transferred to the specific sinking fund or bond retirement fund from which such bonds are payable. In the event the amount of such unexpended balance exceeds the amount required to meet the principal and interest payments due on such bonds during any given year, there is no authority to apply the excess toward the payment of interest and principal of other bond issues as long as any of the bonds which produced this excess remain outstanding.

COLUMBUS, OHIO, June 28, 1930.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Your letter of recent date is as follows:

"Section 5625-13, as amended in 113 O. L., page 673, provides in part that the unexpended balance in a bond fund shall be transferred to the sink-

ing or bond retirement fund. Occasionally the unexpended balance of a bond fund of a municipal corporation which is transferred to the bond retirement fund exceeds the amount required for the payment of one year's interest on such bond issue and the first maturity.

Section 2293-26, G. C., provides in part that the resolution or ordinance authorizing an issue of bonds or notes shall provide for the levying of a tax sufficient in amount to pay the interest on and retire at maturity all of the bonds covered by said resolution or ordinance, but the amount of the tax to be levied in any year may be reduced by the amount to be available for such purposes from special assessments, revenues and surplus funds of public utilities, any surplus in the fund from which such bonds are to be retired, or other moneys specifically assigned by law for such debt charges and not otherwise pledged or obligated.

Question. When the unexpended balance transferred to the bond retirement fund exceeds the amount required for interest and bond redemption during the same fiscal year, may such excess be applied to other bond issues for which taxes must be levied during such fiscal year?"

It is required by Section 5625-9, General Code, that a special bond fund be established for each bond issue. When an issue of bonds is sold, it is provided that all proceeds from such sale, except the premium and accrued interest, shall be paid into a special fund for the purpose of the issue. Section 5625-10, General Code. With the exception of instances when bonds may be issued for the payment of final judgments and to refund outstanding bonds, bonds may be issued only for the purpose of acquiring or constructing permanent improvements as provided in the Uniform Bond Act. In the event the entire proceeds from the sale of a bond issue, exclusive of premium and accrued interest, is not needed for the purpose for which the bonds were issued and there remains in the bond fund in which such proceeds were deposited an unexpended balance, the only authority for transferring such unexpended balance is contained in paragraph (a) of Section 5625-13, General Code, which section provides in so far as is pertinent as follows:

"No transfers shall be made from one fund of a subdivision to any other fund, by order of the court or otherwise, except as hereinafter provided:

(a) The unexpended balance in a bond fund that is no longer needed for the purpose for which such fund was created shall be transferred to the sinking fund or bond retirement fund from which such bonds are payable.
* * * * *

It should be observed that there is no authority for transferring these unexpended balances to the sinking fund or bond retirement fund other than the sinking fund or bond retirement fund from which the bonds which produced the unexpended balance are payable. Section 5625-10, General Code, expressly provides that "money paid into any fund shall be used only for the purposes for which such fund is established." It necessarily follows, therefore, that so long as any bonds of a given issue remain outstanding, the remaining proceeds of that issue may not be used for any other purpose than for the purpose of meeting the principal and interest requirements of that specific issue. Of course, after an issue is paid in full, provision is elsewhere made in Section 5625-13 for the disposition of any remaining unexpended funds arising therefrom which can no longer be needed for the purpose of meeting the interest and principal requirements of the issue.

Section 2293-26, General Code, to which you refer, provides for the resolution or ordinance which shall be passed to authorize the issuance of bonds. This section contains, inter alia, the following language:

"The resolution or ordinance provided for in this section shall provide for the levying of a tax sufficient in amount to pay the interest on and retire at maturity all of the bonds covered by said resolution or ordinance but the amount of the tax to be levied in any year may be reduced by the amount to be available for such purposes from special assessments, revenues and surplus funds of public utilities, any surplus in the fund from which such bonds are to be retired, or other moneys specifically assigned by law for such debt charges and not otherwise pledged or obligated."

Perhaps a consideration of this language standing alone might raise the inference that the amount of tax necessary to be levied to pay the interest on and retire at maturity an issue of bonds may be reduced as a result of unexpended balances existing in some other bond fund which are no longer needed for the purpose of such other issue, but a consideration of the provisions of the Budget Law precludes such a construction.

In view of the foregoing and in specific answer to your question, it is my opinion that the unexpended balance in a bond fund which is no longer needed for the purpose for which such fund was created shall be transferred to the specific sinking fund or bond retirement fund from which such bonds are payable. In the event the amount of such unexpended balance exceeds the amount required to meet the principal and interest payments due on such bonds during any given year, there is no authority to apply the excess toward the payment of interest and principal of other bond issues as long as any of the bonds which produced this excess remain outstanding.

Respectfully,

GILBERT BETTMAN,

Attorney General.

2043.

APPROVAL, ABSTRACT OF TITLE RELATING TO PROPOSED PURCHASE OF A CERTAIN TRACT OF LAND IN CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, JUNE 28, 1930.

The State Office Building Commission, Columbus, Ohio.

GENTLEMEN:—There has been submitted for my examination and approval an abstract of title, two certain warranty deeds and encumbrance estimate No. 628, relating to the proposed purchase of a certain tract and parcel of land in the city of Columbus, Franklin County, Ohio, and being more particularly described as follows:

"Being twenty-eight and one-fourth ($28\frac{1}{4}$) feet off of the South side of fractional Inlot Number One Hundred and Twenty-three (123) in said city of Columbus, Ohio, as the same is numbered and delineated upon the recorded plat thereof, of record in Deed Book 'F', page 332, Recorder's Office, Franklin County, Ohio; together with all the rights, privileges, easements and appurtenances thereunto belonging, and especially all the right, title, interest and estate of the grantor under and by virtue of a certain land contract dated December 10, 1920, by and between Harry D. Freeman and C. C. Philbrick and Thaddeus H. Brown and Marie T. Brown, and now recorded in the Recorder's Office, Franklin County, Ohio, in Volume 18 of Miscellaneous Records, page 100."