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1. MUNICIPALITY—MAY PROPERLY ADOPT ORDINANCE TO REQUIRE FIRE ALARM SYSTEMS IN PUBLIC SCHOOLS—CONNECTION—AUTOMATIC TRANSMISSION OF ALARMS TO MUNICIPAL FIRE DEPARTMENT—OPERATION OF SCHOOL ALARM STATION—ARTICLE XVIII, SECTION 3, CONSTITUTION OF OHIO.
2. INDICATED ORDINANCE—NO CONFLICT WITH GENERAL LAWS OF STATE AS TO REQUIREMENTS FOR FIRE ALARM SYSTEMS IN PUBLIC SCHOOLS.

SYLLABUS:

1. A municipality may, by virtue of the authority granted it in Section 3, Article XVIII of the Constitution, properly adopt an ordinance requiring fire alarm systems in public schools to be so connected as to cause automatic transmission of alarms to the municipal fire department upon operation of any school alarm station.

2. Such an ordinance would not conflict with the general laws of the state pertaining to the requirements for fire alarm systems in public schools.

Columbus, Ohio, October 10, 1950

Hon. Harry J. Callan, State Fire Marshal
Division of State Fire Marshal, Columbus, Ohio

Dear Sir:

Your request for my opinion reads in part as follows:

“* * * We respectfully request that you render an informal opinion as to whether or not the Home Rule Provision of Section 4391, General Code, supersedes Section 12600-70, General Code, in relation to the requirements of fire alarm systems for public schools. * * *”

As I interpret it, your inquiry is essentially one of whether or not a municipality may enact an ordinance requiring fire alarm systems in public schools to be so connected as to cause automatic transmission of alarms to the municipal fire department upon operation of any school alarm station.

Without an extensive citation of authority, suffice it to say that since the adoption of Article XVIII of the Ohio Constitution, municipal power as such is derived from and regulated by constitutional provisions and not

through the general assembly. As such I do not deem it necessary to consider the question of whether or not Sections 4391, et seq., of the General Code confer on municipalities the power to adopt regulations of the type here in issue, for if municipalities have the power so to do by the constitution, the question of whether or not they have statutory authority so to act is superfluous.

The controlling provisions of the constitution, found in Article XVIII, confer upon municipalities the "authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other regulations, as are not in conflict with general laws." (Sec. 3, Art. XVIII.)

Fire protection is according to the great weight of authority a matter of state-wide concern and is as such subject to state control. *Cincinnati v. Gamble*, 138 O. S. 220 at 228. That is to say, protection against the hazards of fire is not an area peculiarly within the field of local self-government and as such any action on the part of a municipality in this area is subject to and must conform with the constitutional limitation that a municipal regulation must not conflict with general laws of the state on the subject.

It is, therefore, apparent that a municipality may, under the authority granted it by the constitution, enact an ordinance requiring the installation of fire alarm systems in public schools, which automatically transmit a signal to the municipal fire department, if such an ordinance does not conflict with general laws relating to the requirements of a fire alarm system, and if such an ordinance is reasonably necessary and appropriate to secure the safety, welfare and best interests of the public.

Section 12600-70, General Code, sets out the general requirements of a public school fire alarm system. This section in addition also provides that:

"* * * Where it is desired alarm systems may be arranged to cause automatic transmission of alarms to fire departments upon operation of any alarm sending station. Such connections shall be so arranged as to permit drills to be conducted by those in authority without calling out the fire department."

It is clear, in view of the above quoted provision of Section 12600-70, General Code, that an ordinance requiring installation of a fire alarm system which automatically transmits a signal to the fire department in an

emergency would not conflict with the requirements therein set out but would rather be a permissible addition thereto. This because the evident intent of the legislature in including this provision was to permit adoption of a regulation requiring such an installation where local conditions were such as to demand it.

Accordingly, it is my opinion that a municipality may, by virtue of the authority granted it in Section 3, Article XVIII of the Constitution, properly adopt an ordinance requiring fire alarm systems in public schools to be so connected as to cause automatic transmission of alarms to the municipal fire department upon operation of any school alarm station; and that such an ordinance would not conflict with general laws of the state pertaining to the requirements for fire alarm systems in public schools.

Respectfully,

HERBERT S. DUFFY,
Attorney General.