

seine, for each fishing season defined in this chapter shall be as follows:

- For each rowboat used in fishing with gill nets or bar nets, ten dollars;
- For each sailboat used in fishing with gill nets or bar nets, ten dollars;
- For each gasoline or other power boat, of five net tons or under, used in fishing with gill nets or bar nets, twenty dollars;
- For each gasoline or other power boat, of over five net tons, and for each steamboat used in fishing with gill nets, thirty dollars;
- For each rowboat used in fishing with trout line, two dollars;
- For each seine used in fishing, seven and one-half cents per rod, provided, however, that the minimum license for any seine used in fishing shall be five dollars, in any one season;
- For each pound net used in fishing, four dollars;
- For each net or other device used in fishing, other than a gill net, bar net, seine, pound net or hook and line, two dollars;
- For each gasoline or other power boat and for each steamboat owned or chartered by any person not a resident of the state of Ohio, fifty dollars."

Your attention is also called to the fact that section 1430, General Code, as amended, merely provides that a fee of three dollars be paid by a non-resident "as a license therefor" and does not require that a license fee be paid for the instruments used.

It is therefore my opinion that a license granted by virtue of section 1430, General Code, as amended, permits a non-resident to fish with either rod and reel or a pole in Ohio and that a separate license is not required for each separate method of angling.

In view of what has been said as to the power of the state to confer the privilege of fishing upon residents and non-residents, it follows that a non-resident who fishes only with a line need not pay a license fee, since the state has deemed it advisable only to require a license to be procured by a non-resident when angling either with reel and rod or pole.

It is therefore my opinion that a non-resident who fishes with a line without a pole is not required to take out a license, since section 1430, General Code, as amended, specifically provides that a license is only required when a non-resident is angling with reel and rod or with a pole.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3356.

VILLAGE SCHOOL DISTRICT—BECOMING CITY SCHOOL DISTRICT
ON DECEMBER 31, 1930—SUPERINTENDENT HIRED UNDER FOR-
MER SECTION 4740, GENERAL CODE, BECOMES CITY SUPERIN-
TENDENT FOR REMAINDER OF TERM OF CONTRACT
—EXCEPTIONS NOTED.

SYLLABUS:

Where, in a village school district which was automatically advanced to a city school district, by reason of a change of population, on December 31, 1930, there had been employed a person whose employment had existed by reason of a

contract made by authority of Section 4740, General Code, prior to the effective date of its repeal, and that contract had not yet expired, the person so employed continues as an employe of the city district in accordance with the terms of his former contract, and possesses the power and is charged with the duties of a city superintendent of schools from and after December 31, 1930, and until said contract expires or is dissolved or he be dismissed for cause.

COLUMBUS, OHIO, June 24, 1931.

HON. J. L. CLIFTON, *Director of Education, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

“In my request for an opinion on the results of the organization of certain school districts of their being advanced to city districts, to which you made complete reply in your Opinion No. 3185, I failed to cover the following point, on which I now ask you kindly to render an opinion:

In certain districts which were districts of the county school districts and which the population by the new census has advanced to city districts, superintendents had been elected under the provisions of former Section 4740, before that section was repealed by the 1929 Assembly and they were serving on those contracts which had not yet expired on December 31. Are these heads of schools ‘superintendents’, advanced to city superintendents as is the case with exempted village superintendents of districts which have grown into cities, and hence do they fill out their contracts of employment as superintendents, that is, city superintendents under the changed status of the districts?”

In Opinion No. 3185, referred to in the above communication, which opinion was addressed to the Director of Education under date of April 27, 1931, it was held in substance, that a superintendent of schools who had been employed for a definite term, by the board of education of an exempted village school district, which, later, had become a city school district by reason of a change of population, before the expiration of the term of service for which the superintendent had been employed, continues to serve as superintendent of the schools of the district under the title of city superintendent of schools until the expiration of the time fixed in his contract of hire.

By reference to Section 7699, General Code, it will be observed that when an appointment is made by a board of education of any person to any position under the control of the board and the clerk notifies such person of his appointment and he accepts the appointment, a contract exists between the parties, which contract is binding upon both parties thereto until it is dissolved, expires or the appointee is dismissed for cause. The terms of the statute with respect to this matter are, after providing that upon the appointment of any person to any position under the control of a board of education the clerk must notify such person of his appointment, the conditions thereof, and request and secure from him within a reasonable time to be determined by the board, his acceptance or rejection of such appointment “an acceptance of it within the time thus determined shall constitute a contract binding both parties thereto until such time as it may be dissolved, expires, or the appointee be dismissed for cause.”

The transition of a school district from an exempted village district or a village district to a city district, by reason of an increase in population, does not in my opinion serve to dissolve a contract of this kind, and unless the contract

has expired or the appointee has been dismissed for cause it is still a valid and binding contract upon both parties thereto, and should be carried out.

In Opinion No. 3181, where questions relating to the transition of a village school district to a city school district by reason of a change in population were under discussion, it was stated: "The territory composing the new district remains the same as that of the former district. Contracts of the former district must be carried out and its obligations met as these could not lawfully be impaired or abrogated, and the old board is continued to administer the affairs of the district in the interim until a new board is elected."

The principles involved in the determination that a contract with a superintendent of schools in an exempted village school district, which becomes a city school district by reason of a change in population, is binding upon the school district until the contract expires, unless it be dissolved or the superintendent dismissed for cause, are applicable, by analogy, to a contract had with a superintendent which was made by authority of former section 4740, General Code, before it was repealed. It was held in a former opinion, which may be found in the reported Opinions of the Attorney General for 1929, at page 1045, that:

"A contract of employment made with a district superintendent of schools, by authority of Section 4740, General Code, prior to the effective date of the repeal of said Section 4740, General Code, is a valid and binding contract, and should be performed according to its tenor."

Village school districts which are automatically advanced to city school districts by reason of a change of population as shown by the fourteenth decennial census, became city school districts on December 31, 1930, and I am of the opinion that when, prior to that time, there had functioned in the district an employe who had formerly been employed as a district superintendent of schools by authority of Section 4740, General Code, prior to the effective date of the repeal of said Section 4740, General Code, and his contract of employment had not expired upon said date, he continues as an employe of the board in the capacity of superintendent and possesses the power and is charged with the duties of a city superintendent of schools until the expiration of his contract of hire, unless the contract be sooner dissolved or he be dismissed for cause.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3357.

SOLDIER'S DISCHARGE—DUTY OF COUNTY RECORDER TO CHARGE FEE FOR FURNISHING CERTIFIED COPY—EXCEPTION NOTED.

SYLLABUS:

A county recorder must charge for a certified copy of a soldier's discharge, excepting only when an applicant or any person on his behalf, or any representative of the United States Veterans' Bureau requests the certified copy for use in determining the eligibility of the applicant to participate in moneys payable by the United States through said United States Veterans' Bureau, in which case the certified copy must be furnished free of charge.