

the old school building in the district by the Industrial Commission, forbidding its use for school purposes, such district may issue bonds under section 7630-1 G. C., if it is not practicable to issue further bonds under sections 7625, 7626, 7627, 7628, 7629 and 7630 G. C. to complete such school building.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

2986.

BANKS AND BANKING—BOARD OF EDUCATION—AMOUNT OF SCHOOL FUNDS THAT MAY BE DEPOSITED IN BANK UNDER SECTION 7604 G. C. CANNOT EXCEED AMOUNT OF BANK'S PAID-IN CAPITAL STOCK.

The amount of school funds that may be deposited in a bank by a board of education under authority of section 7604 G. C. cannot, in any case, or under any circumstances, exceed the amount of the bank's paid-in capital stock.

COLUMBUS, OHIO, April 13, 1922.

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

GENTLEMEN:—Your letter of recent date inquiring whether or not a board of education may, under authority of section 7604 G. C., deposit school funds in a bank in excess of the amount of the banks paid-in capital stock, was duly received.

Section 7604 G. C. reads as follows:

“Within thirty days after the first Monday in January, 1916, and every two years thereafter, the board of education of any school district by resolution shall provide for the deposit of any or all moneys coming into the hands of its treasurer. But no bank shall receive a deposit larger than the amount of its paid-in capital stock and in no event to exceed one million dollars, except that in case the board of education shall find that it will be for the best interests of any school district such bank or banks shall be permitted to receive an amount in no event to exceed five million dollars.”

The provisions of this section, placing a limitation on the amount of school funds that may be deposited in banks, first appeared as a part of the act passed April 25, 1904, providing for the reorganization of the common schools of the state. 97 O. L., pp. 334, 351; section 3968 R. S. That act authorized the board of education to provide by resolution for the deposit of moneys coming into the hands of its treasurer, but subject to the express limitation that “no bank shall receive a larger deposit than the amount of its paid-in capital stock, and in no event to exceed three hundred thousand dollars (\$300,000.00).” The sectional number was changed in the revision or codification of the Ohio Laws in 1910, and is now designated as 7604 of the General Code. While the section, under the new designation, has been amended four times, the express limitation that “no bank shall receive a deposit larger than the amount of its paid-in capital stock,” has never been eliminated. See 101 O. L., p. 290; 106 O. L., p. 328; 108 O. L., pt. 1, p. 20; 109 O. L., p. 215. The scope of the

four amendments may be briefly summarized as follows: The first changed the word "may" in the first sentence of the 1910 revision to "shall"; the second required the board to make provision every two years for depositing the school funds; the third raised the maximum amount that could, in any event, be deposited, from \$300,000.00 to \$1,000,000.00; and the fourth added the last clause of the section as now in force relative to the \$5,000,000.00 maximum.

The evident purpose of section 7604 G. C. throughout its entire history has been to provide for the security of school funds, and the principal safeguard provided for in both the original and the amendatory sections was and still is that found in the provision that no bank shall receive an amount larger than the amount of its paid-in capital stock, and in my opinion none of the other provisions of the section can be so construed or applied as to authorize the board to deposit with any bank funds in excess of that amount.

After careful consideration we have reached the conclusion, and so advise you, that section 7604 G. C. means, first, that in no event, and under no circumstances, can a board of education lawfully deposit school funds in any bank in excess of the amount of the bank's paid-in capital stock; and, second, that no matter how large the bank's paid-in capital stock may be, the amount of school funds that may be deposited with it cannot exceed \$1,000,000.00, unless the board finds that it will be for the best interests of the school district for the bank to receive more than \$1,000,000.00, in which event the deposit may be any amount not exceeding \$5,000,000.00, provided, however, in all cases, that the bank's paid-in capital stock also equals or exceeds the amount deposited.

For definitions of the words "paid-in capital stock," as used in the section, see 1918 Opinions of the Attorney General, volume 2, p. 1435; also 1912 Opinions of the Attorney General, volume 1, p. 192.

Respectfully,

JOHN G. PRICE,

Attorney-General.

2987.

APPROVAL, FINAL RESOLUTION FOR ROAD IMPROVEMENT IN
MERCER COUNTY.

COLUMBUS, OHIO, April 13, 1922.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.