

sioners represents the county in respect to its financial affairs, only so far as authority is given it by statute, it can only be properly concluded that a negative answer should be given your first question.

The second question indicated in your inquiry appears to be in a sense hypothetical, in that the facts do not state that actual commitment has been made or the nature of such commitment, and under the circumstances it becomes obvious that definite legal conclusions are impracticable if not wholly impossible. It may be noted however that section 3093 G. C. provides that children permanently committed to a children's home, shall be under the exclusive guardianship and control of the trustees of such institution, and it is believed that it is such permanently committed children to be contemplated by the provision of this section, where authority is given the trustees, to board such children with private families outside of the institution when the circumstances of the case would seem to warrant such action. Although your second question does not state, whether the commitments contemplated are permanent or temporary ones, it may be generally stated in answer to that portion of the question however, relating to the alternatives, the Juvenile Court may adopt in the procedure of committing neglected and dependent children to the care of boards, persons and institutions, that such court is authorized to adopt at its discretion any of the optional provisions of sections 1652 and 1653 G. C. although it may be noted that the payment of board of neglected and dependent children by the county commissioners in cases where commitments are made to private individuals or persons is limited to those cases where there is no children's home in the county, or, in the event of the abandonment of one previously existing.

Answer to your third question may be briefly made in the negative, since it is believed that section 3092 G. C. as amended in 109 O. L., p. 533, although slightly changed in other respects from the original section, still provides in chief for those cases arising wherein there is no children's home within the county, and consequently is not thought to be applicable to counties where such a home already exists.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*

2916.

STATE BOARD OF ACCOUNTANCY—FEE CHARGED APPLICANTS FOR EXAMINATION MAY NOT BE RETAINED BY BOARD IN EVENT APPLICANT IS PRECLUDED FROM EXAMINATION BY REASON OF INELIGIBILITY—SEE SECTION 1375 G. C.

*Under section 1375 G. C. the fee of twenty-five dollars charged applicants for the examination in accountancy provided by section 1374 G. C. may not be retained by the state board of accountancy in event the applicant is precluded from such an examination by reason of ineligibility, but under such circumstance should be returned to said applicant.*

COLUMBUS, OHIO, March 9, 1922.

MR. L. W. BLYTH, *Secretary, State Board of Accountancy, 1400 Hanna Building, Cleveland, Ohio.*

DEAR SIR:—Receipt is acknowledged of your recent communication which reads as follows:

"I have been requested by the Ohio State Board of Accountancy to obtain from you your opinion as to the intent of section 1375 regarding refundment of fees.

The board requires that each application must be accompanied by a fee of twenty-five dollars (\$25.00) in the form of a draft, certified check or postoffice money order, payable to the treasurer of the Ohio State Board of Accountancy before the application will be considered.

In order to qualify, an applicant for a certified public accountant certificate must be twenty-one years of age, must be a citizen of the United States or must have declared intentions to become a citizen of the United States. The applicant is required to have a first grade high school diploma or an equivalent secondary education and at least three years' experience in the practice of accountancy.

On receipt of the application the secretary immediately corresponds with all references to verify the facts contained in the application. The board also spends considerable time and effort to determine whether or not the applicant is eligible for examination. If found ineligible, it has been the custom of the board to advise the applicant of his rejection and return the fee deposited.

We would be pleased to have your opinion as to whether or not the board is required to return the fee if the application is rejected after the board having spent considerable time and effort in obtaining the facts.

We enclose copy of the certified public accountant law and await with pleasure, your opinion."

Consideration of the questions presented, involves apparently a construction of sections 1374 and 1375 of the General Code.

Section 1374 G. C. provides:

"Each year, the state board of accountancy shall hold an examination for such certificate. Each applicant shall be examined in theory of accounts, practical accounting, auditing and commercial law as affecting accountancy. If three or more persons apply for certificates within not less than five months after the annual examination, the board shall hold an examination for them. The time and place of each examination shall be fixed by the board."

Section 1375 G. C. provides:

"At the time of filing the application for such examination and certificate, each applicant shall pay to the treasurer of the state board of accountancy a fee of twenty-five dollars. Such examination fee shall not be refunded, but an applicant may be re-examined without the payment of an additional fee within eighteen months from the date of his application."

It is thought that the "examination fee" specified by the provisions of section 1375 G. C. quoted supra, is intended to be the fee chargeable by the state board of accountancy for the examination indicated in section 1375 G. C. and which includes the subjects of theory of accounts, practical accounting, auditing, and commercial law as affecting accountancy.

In the several sections comprising the accountancy act it is nowhere stated that any portion of the twenty-five dollar fee charged for the examination in the sub-

jects mentioned is to be considered as a fee covering a preliminary examination relative to the eligibility of the applicant. It is true section 1373 G. C. provides certain qualifications required of persons practicing as public accountants, but such limitations would seemingly reach rather their right to practice accountancy than the right to be examined in the subjects specified in section 1374 G. C. Such reasoning however is not intended to warrant the assumption that the board of accountancy may not pass upon the eligibility of those applying for examinations, but it thought rather to strengthen the conclusion, that the twenty-five dollar fee indicated in section 1375 G. C. is an examination fee charged for the examination held by the state board of accountancy, for the purpose of determining the applicants' knowledge relative to the subjects specified, and which apparently do not include questions of the applicants' eligibility. Thus it would seem to follow that an applicant who is rejected by the board as ineligible to be examined, could not upon any equitable grounds be charged a fee for an examination which in turn he is prevented from taking by the action of the board of accountancy in the instance. Reading together therefore sections 1374 and 1375 G. C. it is thought rather that the paragraph reading "Such examination fee shall not be refunded, but an applicant may be re-examined without the payment of an additional fee within eighteen months from the date of his application" is intended to contemplate those cases where the applicant has been examined in the subjects mentioned in section 1374 G. C. and has failed to pass such an examination.

In support of the view expressed, attention is directed to a former opinion of this department, found in Opinions of the Attorney-General, 1913, Vol. I, page 922, wherein it is held, that where an application for an examination in accountancy is filed with the state board, accompanied by the required fee for such examination, and the applicant denied examination, the board should return to the rejected applicant the fee which he had deposited.

Concurring therefore with the views of my predecessor upon the subject considered, I am of the opinion that in cases where the applicant for examination in accountancy, has deposited with the state board the fee specified by section 1374 G. C. and has been precluded from the examination provided by section 1375 G. C. for reasons of ineligibility, said fee under such circumstances may not be retained by said board, but should in such cases be returned to the applicant.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

2917.

SCHOOLS--TRANSFER OF TERRITORY UNDER SECTION 4696 G. C. FROM MORE THAN ONE DISTRICT--FOR MANDATORY TRANSFER PETITION SHOULD BE PRESENTED FROM EACH SCHOOL DISTRICT AND CONTAIN SEVENTY-FIVE PER CENT OF ELECTORS IN EACH SCHOOL DISTRICT.

*Where it is desired to transfer school territory under section 4696 G. C. and such school territory is taken from more than one school district, a petition (required for a mandatory transfer of such school territory) should be presented from*