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DISAPPROVAL, BONDS OF BLUE ASH SCHOOL DISTRICT, HAMILTON COUNTY, \$35,000.00.

COLUMBUS, OHIO, August 4, 1924

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

Re: Bonds of Blue Ash School District, Hamilton County, \$35,000.00.

Gentlemen:—

I have examined the transcript furnished this department for examination in connection with the foregoing issue and find that I cannot approve the same for the following reasons:

The preliminary resolution passed by the board of education in connection with this issue of bonds contains the following provision:

“Whereas it is necessary for the proper accommodations of the High School pupils of said district and by virtue of School Order No. 1316 of the State Department of Industrial Relations, to purchase land and erect and build a new fire proof school house for said purpose, * * * .”

This resolution further recites that funds at the disposal of the board of education and that can be raised under the provisions of sections 7625 to 7630, inclusive, of the General Code of Ohio, are not sufficient to accomplish said purpose

The transcript does not contain a copy of Order No. 1316, but since reference is made to the same, it is concluded upon examination that the use of the present school building for its intended purpose has been prohibited by the Department of Industrial Relations, but that the building has not been destroyed by fire or other casualty as mentioned in section 7630-1 G. C.

This section of the General Code, as amended in 110 O L, page 420, contains the following language:

“If a schoolhouse is wholly or partly destroyed by fire or other casualty, or if the use of any schoolhouse for its intended purpose is prohibited by any order of the department of industrial relations, and the board of education of the school district is without sufficient funds applicable to the purpose, with which to rebuild or repair such schoolhouse or to construct a new schoolhouse for the proper accommodation of the schools of the district, and it is not practicable to secure funds under any of the six preceding sections because of the limits of taxation applicable to such school district, such board of education may, subject to the provisions of sections seventy-six hundred and twenty-six and seventy-six hundred and twenty-seven, and upon the approval of the electors in the manner provided by sections seventy-six hundred and twenty-five and seventy-six hundred and twenty-six issue bonds for the amount required for such purpose. Such bond issue may be voted upon at a general election or if the bonds are issued for the purpose of rebuilding or repairing a schoolhouse wholly or partly destroyed by fire or other casualty, or for the purpose of building a new schoolhouse for the proper accommodation of schools of the district in lieu of repairing or rebuilding such schoolhouse destroyed by fire or other casualty, at a general election or at a special election called for that purpose. * * * .”

The transcript shows that an election was called and held on April 29, 1924, for approval of a bond issue:

“ * * * for the purpose of purchasing additional grounds and for building and erecting a new fire proof school building, all as authorized by sections 7625 to 7630-1 inclusive, of the General Code.”

The bond resolution also recites that the issue is made under the provisions of sections 7625, 7626, 7627, and 7630-1 of the General Code. It is therefore indefinite and uncertain as to the law under which the issue is to be made.

However, under the provisions of sections 7625 and 7630-1 G. C., the only purposes for which special elections may be held in connection with the issuance of bonds for school purposes are to provide funds to complete a partially built school house, or to rebuild or repair a school house wholly or partly destroyed by fire or other casualty, or to build a new school house in lieu of repairing or rebuilding such school house destroyed by fire or other casualty.

This election being held on the date that a vote was had for presidential preference, the question arises as to whether or not such election was a general election, or other election as contemplated by the statute.

This question has been decided in the case of *Yeatman vs. State*, 28 O. C. C., 10. The court at page 13 says:

“A careful consideration of all the constitutional provisions and statutes cited above compels the court to the opinion that the term ‘general election’ was intended to apply only to the elections held on the first Tuesday after the first Monday of November both in the even and odd numbered years, and that all other elections would be special elections except the ‘primary elections’ which are another class and otherwise provided for. A general election is one held throughout the state at regularly recurring intervals for the purpose of electing public officers and possibly at the same time voting upon such public questions as might be then legally submitted, while a special election is one held at some other time to vote upon public questions or to elect officers to fill vacancies”

This matter has been discussed in an opinion found in *Opinions of Attorney General*, Volume 1, 1920, page 580.

The transcript submitted does not show that this issue comes within the statutory provisions for special elections, and for the reasons set forth, I am of the opinion that these bonds are not legal and valid obligations of the above school district, and you are therefore advised not to purchase the same.

Respectfully,
C. C. CRABBE,
Attorney General.