

1053.

APPROVAL, BONDS OF CELEVLAND CITY SCHOOL DISTRICT, CUYA-HOGA COUNTY, OHIO—\$750,000.00.

COLUMBUS, OHIO, July 20, 1933.

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

1054.

FIREMEN—PENSION FUND—MONEYS THEREOF DEPOSITED IN BANK BY TREASURER OF MUNICIPALITY ARE PUBLIC FUNDS.

*SYLLABUS:*

*Moneys deposited in a bank by the treasurer of a municipality which constitute the firemen's pension fund are public funds.*

COLUMBUS, OHIO, July 20, 1933.

HON. HOWARD M. NAZOR, *Prosecuting Attorney, Jefferson, Ohio.*

DEAR SIR:—I have your letter of recent date which reads as follows:

“General Code Section 4610 provides as follows:

‘The treasurer of the municipality shall be the custodian of the firemen’s pension fund, and shall pay it out upon the proper order of the trustees thereof.’

When the present treasurer of the City of Ashtabula was appointed, the firemen’s pension fund, amounting to between twenty and twenty-five thousand dollars, was paid over to him by virtue of his appointment and he has been the custodian of this fund ever since. He has furnished bond to the City which provides that he shall ‘honestly and impartially perform the duties of said office imposed by law, and shall honestly account for all monies that may come into his hands in his official capacity during his continuance therein’.

These funds are on deposit in The M———— Savings Bank Company of A———— and they have adopted a plan for reopening which would release 55% of their deposits, providing a majority of the depositors agree to this. The conservator of the bank is endeavoring to have the trustees of the pension fund sign such an agreement, and is treating this fund as a private fund. Under the plan, all public funds of the bank are to be released in toto. The pension fund has been created, of course, through the collection of taxes, and it would be my opinion that it is a public fund and should be released in its entirety.

I would appreciate very much your opinion covering this matter.”

As I understand your question, it is whether a deposit of the firemen’s pension fund comes within the term “public funds” as used in a plan for the re-opening