



**THE ATTORNEY GENERAL
OF TEXAS**

GROVER SELLERS

ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Royall R. Watkins, President
State Board of Education
Austin, Texas

Dear Sir:

Opinion No. 0-6283

Re: Can local public boards legally authorize the payment out of local school moneys of insurance premiums on policies payable to the State Board for Vocational Education and covering the value of educational equipment loaned to them by the State Board for Vocational Education? And other questions.

We are in receipt of your opinion request reading as follows:

"At the last meeting of the State Board for Vocational Education the writer was directed and authorized to submit to you for your consideration and advice the matter of whether or not a local school board could lawfully pay premiums on insurance policies covering the loss of equipment, etc. loaned to the respective school boards throughout the State of Texas by the State Board for Vocational Education.

"The State Board for Vocational Education holds title to a large quantity of shop equipment which can be used by local public schools and which it proposes to loan to local public schools for use in their vocational shops to assist the local school in training their students in various fields of work. The value of the equipment loaned to individual schools will vary from two or three thousand dollars to as much as thirty thousand dollars. The State Board for Vocational Education proposes to loan this equipment to the local public schools using a contract, a copy of which is attached. In order to protect the interest of the State Board

for Vocational Education, the local public schools have been requested to carry fire insurance covering the cost of the equipment in the name of the State Board for Vocational Education. The question has been raised by the local school board attorneys as to the legality of this requirement. We respectfully request the opinion of the Attorney General in regard to the following three questions:

"1. Can local public school boards legally authorize the payment out of local school moneys of insurance premiums on policies payable to the State Board for Vocational Education and covering the value of education equipment loaned to them by the State Board for Vocational Education?

"2. (a) Would it be permissible for the local public schools to pay to the State Board for Vocational Education a nominal rent for the use of vocational shop equipment loaned to them by the State Board for use in educational programs for regular high school students?

"(b) If the answer to 2 (a) - the first part of this question - is 'yes,' can the State Board for Vocational Education lawfully apply the moneys received for the nominal rent for the payment of premiums on insurance policies covering the equipment loaned to the public schools?

"3. If a local school board by official action makes itself responsible for the replacement of any equipment loaned to it by the State Board for Vocational Education and loss by fire or theft, would it be legal for the local school board to purchase equipment to replace that destroyed or lost and return it to the State Board for Vocational Education?"

The only authority for a school district to pay insurance premiums is found in Article 2827, Vernon's Texas Civil Statutes, which reads as follows:

"The public free school funds shall not be expended except for the following purposes:

"1. The State and county available funds shall be used exclusively for the payment of teachers' and superintendents' salaries, fees for taking the scholastic census, and interest on money borrowed on short time to pay salaries of teachers and superintendents, when these salaries become due before the school funds for the current year become available; provided that no loans for the purpose of payment of teachers shall be paid out of funds other than those for the then current year.

"2. Local school funds from district taxes, tuition fees of pupils not entitled to free tuition and other local sources may be used for the purposes enumerated for State and county funds and for purchasing appliances and supplies, for the payment of insurance premiums, janitors and other employees, for buying school sites, buying, building and repairing and renting school houses, and for other purposes necessary in the conduct of the public schools to be determined by the Board of Trustees, the accounts and vouchers for county districts to be approved by the county superintendent; provided, that when the State available school fund in any city or district is sufficient to maintain the school thereof in any year for at least eight months, and leave a surplus, such surplus may be expended for the purposes mentioned herein.

"3. All independent school districts having within their limits a city with a population of 160,000 or more according to the last preceding Federal census shall, in addition to the powers now possessed by them for the use and expenditure of local school funds and for the issuance of school bonds, be expressly authorized and empowered, at the option of the governing body of any such school district, in the buying of school sites and/or additions to school sites and in the building of school houses, to issue and deliver notes of the school district, negotiable or non-negotiable in form, representing all or a part of the purchase price or cost to the school district of the land and/or building so purchased or built, and to secure such notes by a vendor's lien and/or deed of trust lien against such land and/or building, and, by resolution or order of the governing body of the school district made at or before the delivery of such notes, to set aside and appropriate as a trust fund, and the sole and only fund, for the

payment of the principal of and interest on such notes such part and portion of the local school funds, levied and collected by the school district in that year, and/or subsequent years, as the governing body of the school district may determine, provided that in no event shall the aggregate amount of local school funds set aside in or for any subsequent year for the retirement of such notes exceed, in any one such subsequent year, ten (10%) per cent of the local school funds collected during such year."

In our opinion all of the above questions should be answered in the negative. The Legislature did not have in mind the payment of insurance premiums on borrowed property when it passed Article 2827, Vernon's Texas Civil Statutes, but only on such buildings and contents as are authorized by law to be owned by school districts.

It is our opinion that insurance policies for which premiums are authorized to be paid by this article out of local school funds are such policies as protect the district, itself, from pecuniary liability or loss. Ordinarily, it is the purpose of insurance policies to protect the insured from liability or loss and not to provide the means of compensating a third party for loss. We find no law, either State or Federal, which has the effect of making the State Board for Vocational Education liable for the loss by fire of any of the equipment supplied by the Government, nor do we find any law requiring either the State Board for Vocational Education or the schools using such equipment to insure same.

Doubtless, the Legislature could authorize school districts to insure the equipment, but, so far, it has not done so. The Legislature could authorize the State Board for Vocational Education to charge nominal rent for the use of the equipment and to apply the money received in payment of premiums on insurance policies covering the equipment so loaned to the school districts, but in the absence of any legislation whatever with respect to these matters, we think the State Board for Vocational Education is without authority to require school districts to insure same and, the Board, likewise, is without authority to insure it.

We thank you for your courtesy in furnishing us with additional documentary material and regret that we find nothing

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therein which would justify us in holding otherwise than as hereinabove stated.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ C. F. Gibson
C. F. Gibson
Assistant

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APPROVED JAN 20, 1945

/s/ Carlos C. Ashley

FIRST ASSISTANT ATTORNEY GENERAL

APPROVED
OPINION
COMMITTEE
BY /s/ B. W. B.
CHAIRMAN