

● Commonwealth of Kentucky ●

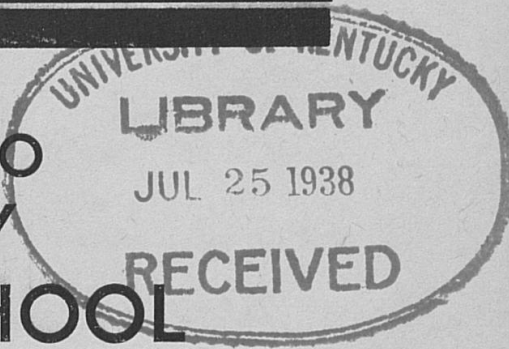
# EDUCATIONAL BULLETIN

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## SUPPLEMENT TO KENTUCKY COMMON SCHOOL LAWS



ENACTMENTS OF REGULAR AND EXTRAORDINARY  
SESSIONS OF 1936 AND 1938  
AND  
EXTRAORDINARY SESSION OF 1934



Published by  
DEPARTMENT OF EDUCATION  
H. W. PETERS  
Superintendent of Public Instruction

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### FOREWORD

This bulletin contains the school laws passed by the General and Extraordinary Sessions of the Legislature since the enactment of the new school code in 1934. Section numbers have been added to all parts which have been assigned such numbers in the Kentucky Statutes.

This compilation of school laws and the annotations of court decisions and of opinions of the Attorney General were prepared by Gordie Young, Assistant Superintendent of Public Instruction. The annotations of the decisions of the Court of Appeals include Volume 272, page 654, Kentucky Reports. This bulletin, together with a copy of the new school code, will furnish an up-to-date reference for Kentucky school law.

H. W. PETERS,  
*Superintendent Public Instruction.*

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**ENACTMENTS OF REGULAR AND EXTRAORDINARY  
SESSIONS OF 1936 AND 1938  
AND  
EXTRAORDINARY SESSION OF 1934**

**Certification of Property Assessment in Annexed Territory to the  
Annexing Authority**

Sec. 4128-1, Ky. Stat. **Assessments to be certified.** That all assessments of property heretofore made or hereafter made in territory annexed thereafter to another civil division, prior to such annexation shall be certified by the assessor making the same, to the annexing civil division and by the proper authority thereof, submitted to its board of equalization to be equalized as provided by law; and when so equalized the regular annual tax of the annexing division shall be levied by the proper authority thereof and placed upon its tax bills made therefor and collected as its other taxes; and said taxes if allowed to become delinquent, shall be subject to the same interest and penalty charged and enforced in the manner provided by the law governing such annexing division. (1936, c. 97, ¶ 1, Eff. Feb. 27, 1936.)

Sec. 4128-2, Ky. Stat. **Taxes certified late.** Should the equalization board be about to adjourn when, or have adjourned before said assessment is certified as provided in the preceding section, the time of such board may be extended for a reasonable time or it shall be reconvened for the purpose of passing upon such certified assessment; and should, for any reason, such assessment and equalization be completed after the regular levy of taxes for that year have been levied, a levy may thereafter be made as soon as practicable for that year's tax. (1936, c. 97, ¶ 2, Eff. Feb. 27, 1936.)

**Free Textbooks**

Sec. 4421d-1, Ky. Stat. **Purchase and distribution.** That the State Board of Education shall have full authority to purchase textbooks as provided by Chapter forty-eight, Acts of nineteen hundred twenty-eight, and shall have full authority to adopt such rules and regulations for the purchase and distribution of such books as in its judgment may be necessary, provided such rules and regulations are not in conflict with law. In the purchase and distribution of textbooks the State Board of Education shall begin with the first grade and shall furnish textbooks to the first grade before any are

bought for the second grade. After books have been furnished to the first grade, if additional funds are available the State Board shall furnish books to the second grade, and so on, until the fund is exhausted; provided if, in the judgment of the State Board of Education sufficient funds are not available to furnish all the textbooks to any grade, then that Board shall have authority to determine for what subject or subjects in that particular grade textbooks shall be provided. There is hereby appropriated annually, out of the General Fund, the sum of five hundred thousand dollars for the purchase and distribution of textbooks as provided in this Act, and any unused balance left from one year shall be carried to the following year and shall be used for the purposes provided in this Act. This sum is irrevocably set aside for purchase and distribution of textbooks as provided in this Act. The State Board of Education is hereby given full authority to administer the purchase and distribution of textbooks in the Commonwealth of Kentucky, and shall expend from the funds appropriated by this Act a sufficient amount to bear the expense of Acts providing for the purchase and distribution of textbooks in this Commonwealth, provided that no amount shall be expended out of this fund except on proper approval of the State Board of Education, and by requisition of the Superintendent of Public Instruction drawn upon the Auditor of Public Accounts. (1934, Ex. S., c. 3, ¶ 1, Eff. July 3, 1934.)

**Acquiring School Buildings Outside of Cities Authorizing Boards of Education to Deed Property to the Fiscal Court**

Sec. 4421-20, Ky. Stat. **Board to convey title to county.** That for the purpose of providing buildings for elementary and/or high school purposes, boards of education of county and independent school districts located within counties, exclusive of incorporated cities of such counties, are hereby authorized and empowered to convey a fee simple title with covenant of general warranty of title, to a site for any such building now held or hereafter acquired by such boards of education, to such counties. (1934, Ex. S., c. 14, ¶ 1, Eff. July 13, 1934.)

Sec. 4421-21, Ky. Stat. **Contract for erection of building.** Every such county to which a building site for a building has been conveyed, as provided in section one hereof, shall enter into a contract or contracts with some person or persons, corporation or corporations, for the erection on said site of a building with the necessary appurtenances according to plans and specifications adopted by such county and approved by the board of education of the county or



independent school district in which such building is proposed to be constructed and by the Superintendent of Public Instruction. (1934, Ex. S., c. 14, ¶ 2, Eff. July 13, 1934.)

Sec. 4421-22, Ky. Stat. **Lease Building from City.** Immediately upon the approval of the plans and specifications as provided in section two hereof, such board of education shall offer to lease such building for a term of one or more years from the time such buildings shall be completed and ready for occupancy, which term shall be for a number of years acceptable to such county. The said lease by its terms shall give such lessee the right and option to extend the term of such a lease for a term of one or more years from the expiration of the original term of such lease and for one or more years from the expiration of each extended term of such lease, until the original term of such lease shall have been extended for a total number of years, not exceeding thirty years, at a rental which, if paid for the original term and for each of the full number of years for which the term of said lease may be extended, will amortize the total cost of the erection of said building and appurtenances, provide an adequate maintenance fund and in addition thereto a sum sufficient to pay the cost of insuring the building against loss or damage by fire and windstorm or other calamity in such sum as may be agreed by the parties thereto. (1934, Ex. S., c. 14, ¶ 3, Eff. July 13, 1934.)

Sec. 4421-23, Ky. Stat. **Construction of Act.** This act shall be deemed to create an additional and alternate method for the acquisition of elementary and/or high school buildings by any county board of education or board of education of independent school districts and shall not be deemed to include, alter, amend or repeal any other statute and shall apply solely to school buildings constructed with financial assistance from the Federal Government. (1934, Ex. S., c. 14, ¶ 4, Eff. July 13, 1934.)

#### **Authorizing the Fiscal Court to Accept Property Deeded by Boards of Education.**

Sec. 4421-24, Ky. Stat. **Counties authorized to construct buildings.** That counties whether organized under the general law or special charter law are hereby authorized and empowered to establish and erect elementary and/or high school buildings, together with necessary appurtenances thereto under the provisions of this act for the purpose of supplying the board of education of such county or independent school districts located outside of the incorporated cities of such county, adequate buildings necessary to carry out their corporate duties and powers. (1934, Ex. S., c. 15, ¶ 1, Eff. July 13, 1934.)

Sec. 4421-25, Ky. Stat. **Financing; Bonds.** For the purpose of defraying the cost of acquiring any such elementary and/or high school building by construction and appurtenances thereto, any such county may borrow money from the Public Works Administration or other agency of the Federal Government and issue negotiable bonds, provided no such bonds shall be issued unless and until authorized by a resolution specifying the proposed undertaking, the amount of bonds to be issued and the maximum rate of interest such bonds are to bear, which shall not be more than six per cent (6%) per annum. Such resolution shall further provide that the proposed elementary and/or high school buildings and appurtenances thereto are to be constructed or acquired pursuant to the provisions of this act. (1934, Ex. S., c. 15, ¶ 2, Eff. July 13, 1934.)

Sec. 4421-26, Ky. Stat. **Interest on bonds.** All bonds under the provisions of this act may be issued bearing interest at a rate not exceeding six per cent per annum, payable semi-annually, and shall be executed in such manner and be payable at such times, not exceeding thirty years from the date thereof, and at such place or places as such fiscal court or board of commissioners shall determine. (1934, Ex. S., c. 15, ¶ 3, Eff. July 13, 1934.)

Sec. 4421-27, Ky. Stat. **Bonds negotiable, tax free.** Any and all bonds shall have and are hereby declared to have in the hands of bona fide holders all of the qualities of negotiable instruments under the law merchant, and shall not be subject to taxation. In case any of the officers whose signatures or counter signatures appearing on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures or counter signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold in such manner and upon such terms as the fiscal court or board of commissioners shall deem for the best interest of such county. Such bonds when issued shall be payable solely from the revenue funds derived from such elementary and/or high school building as provided in sections eight and nine hereof and shall not constitute an indebtedness of such county within the meaning of the constitutional provisions or limitations. It shall be plainly stated on the face of such bond that same has been issued under the provisions of this act and that it does not constitute an indebtedness of such county within the meaning of any constitutional provisions or limitations. (1934, Ex. S., c. 15, ¶ 4, Eff. July 13, 1934.)

Sec. 4421-28, Ky. Stat. **Use of bond funds.** All moneys received from any bonds issued pursuant hereto shall be applied solely



for the establishment or erection of such elementary and/or high school building and necessary appurtenances thereto, provided such moneys may be used also to advance the payment of the interest on bonds during the first three years following the date of such bonds. And there shall be and there is hereby created a statutory mortgage lien upon the elementary and/or high school building and appurtenances so acquired to and in favor of the holders of said bonds and each of them and to and in favor of the holders of the coupons of said bonds. (1934, Ex. S., c. 15, ¶ 5, Eff. July 13, 1934.)

Sec. 4421-29, Ky. Stat. **Mortgage lien rights.** The elementary and/or high school building so acquired, together with the appurtenances thereto, shall remain subject to such statutory lien until the payment in full of the principal and interest of the bonds. Any holder of said bonds or of any of the coupons may, either at law or in equity, protect and enforce the statutory mortgage lien hereby conferred and may by suit, action, mandamus or other proceedings, enforce and compel performance of all duties required by this act, including the making and collecting of sufficient rates, the segregation of the income and revenue, and the application thereof. (1934, Ex. S., c. 15, ¶ 6, Eff. July 13, 1934.)

Sec. 4421-30, Ky. Stat. **Appointment of receiver.** If there be any default in the payment of the principal or interest of any of said bonds, any court having jurisdiction of the action may appoint a receiver to administer said elementary and/or high school building on behalf of the county, with power to charge and collect rentals sufficient to provide for the payment of any bonds or obligations outstanding against said elementary and/or high school building and for the payment of the operating expenses and apply the income and revenues in conformity with this act, and the resolution referred to in sections eight and nine hereof. (1934, Ex. S., c. 15, ¶ 7, Eff. July 13, 1934.)

Sec. 4421-31, Ky. Stat. **Plans and specifications.** When any such county shall desire to construct such elementary and/or high school building, the fiscal court or board of commissioners of such county shall, by resolution, cause plans and specifications of such building to be constructed, to be duly made and filed in the office of the county court clerk, which plans and specifications shall give a full description of the building to be constructed, the details thereof and the manner of construction. The plans and specifications of such building shall be prepared by an architect selected by the fiscal court and approved by the board of education of the school district and shall be submitted to the board of education of the school dis-

trict in which said building is proposed to be constructed and to the Superintendent of Public Instruction for approval and if approved, and if such board of education shall offer to lease such building for a term of one or more years from the time such building shall be completed and ready for occupancy, with the right and option in such lessee to extend the term of such lease for a term of one or more years from the expiration of the original term of such lease and for one or more years from the expiration of each extended term of such lease, until the original term of such lease shall have been extended for a total number of years, not exceeding thirty years, at a rental which, if paid for the original term and for each of the full number of years for which the term of said lease may be extended, will amortize the total cost of the erection of said building and appurtenances, provide an adequate maintenance fund and in addition thereto a sum sufficient to pay the cost of insuring the building erected against loss or damage by fire and windstorm or other calamity in such sum as may be agreed by the parties thereof, the fiscal court or board of commissioners shall by resolution authorize the issuance of bonds, in the manner and form as herein provided, sufficient to pay the cost of constructing such building, and shall cause the county court clerk to advertise for bids, and thereafter the fiscal court or board of commissioners, by and through the county judge of such county, may contract for the construction of such building. (1934, Ex. S., c. 15, ¶ 8, Eff. July 13, 1934.)

Sec. 4421-32, Ky. Stat. **Rent and its disposition.** At or before the issuance of such bonds the fiscal court or board of commissioners of such county shall, by resolution, set aside and pledge the income of such building into a separate and special fund to be used and applied in payment of the cost thereof and in the maintenance thereof. Said resolution shall definitely fix and determine the amount of revenue which shall be necessary and be set aside and applied for the payment of the principal and interest of the bonds, and balance of such income shall be set aside for the reasonable and proper maintenance thereof, including a sufficient sum to pay the cost of such insurance as hereinabove provided. The rentals to be charged for the use of such building shall be sufficient to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof as and when the same becomes due and to provide for the maintenance thereof including the cost of insuring such building erected against loss or damage by fire and windstorm or other calamity. (1934, Ex. S., c. 15, ¶ 9, Eff. July 13, 1934.)

Sec. 4421-33, Ky. Stat. **Surplus in maintenance fund.** If any



surplus shall be accumulated in the maintenance fund, which shall be equal to the cost of maintaining such building during the remainder of the calendar, or fiscal year, as may be provided by the resolution hereinbefore required and the cost of maintaining and operating such building the succeeding like calendar or fiscal year, any excess over such amount shall be transferred to the sinking fund. (1934, Ex. S., c. 15, ¶ 10, Eff. July 13, 1934.)

Sec. 4421-34, Ky. Stat. **Refunding bond.** Such county may issue refunding bonds for the purpose of providing for the payment of any outstanding bonds, in accordance with the procedure prescribed by this act. Such refunding bonds shall be secured to the same extent and shall have the same source of payment as the bonds which shall have been thereby refunded. (1934, Ex. S., c. 15, ¶ 11, Eff. July 13, 1934.)

Sec. 4421-35, Ky. Stat. **Additional bonds.** Should the fiscal court or board of commissioners find that the bonds authorized will be insufficient to accomplish the purpose desired, additional bonds may be authorized and issued subject to the procedure as herein required. (1934, Ex. S., c. 15, ¶ 12, Eff. July 13, 1934.)

Sec. 4421-36, Ky. Stat. **Administration, sinking fund.** Such county in acquiring any building under the provisions of this act, may provide by resolution any such provision and stipulation for the administration of the income and for the security of the bondholders as the fiscal court or board of commissioners of such county may deem necessary: Provided, that the sinking fund, which shall be provided by resolution as hereinbefore required, shall be deposited in a depository selected by such fiscal court or board of commissioners, which deposit, where practicable, may be continuously secured by a pledge to the county of direct obligations of the United States of America, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account, or in such other manner acceptable to the purchaser or holders of such bonds. Such securities shall either be deposited with the county or be held by a trustee or agent satisfactory to the fiscal court or board of commissioners of such county. Such sinking fund may be invested in direct obligations of the United States of America. (1934, Ex. S., c. 15, ¶ 13, Eff. July 13, 1934.)

Sec. 4421-37, Ky. Stat. **Title goes to board.** When such board of education has paid rentals, in the manner and form as provided in this act, sufficient to amortize the cost of the erection of such building and appurtenances, to maintain such building and pay the cost of insurance, such county shall thereupon convey said premises

to such board, and shall transfer the balance, if any, remaining in the funds herein provided to the account of such board of education. (1934, Ex. S., c. 15, ¶ 14, Eff. July 13, 1934.)

Sec. 4421-38, Ky. Stat. **Construction of act.** This act shall be deemed to create an additional and alternate method for the acquisition of elementary and/or high school buildings by the county and shall not be deemed to include, alter, amend or repeal any other statute. (1934, Ex. S., c. 15, ¶ 15, Eff. July 13, 1934.)

**Teacher Retirement in Cities of the First, Second and Third Classes.**

[Note: These sections (revised sections by the same numbers) Acts 1934, c. 65.]

Sec. 4506-1, Ky. Stat. **Boards of Education.** Boards of Education of Independent School districts embracing cities of the first, second and third classes may and are hereby empowered to establish retirement systems for the purpose of providing retirement allowances and other benefits for teachers and other school employees. A retirement system so created shall have the powers and privileges of a corporation and shall be known as "The Teachers Retirement System of the Schools of....., Kentucky," and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held. (1936, c. 41; 1934, c. 65; Art. IX, ¶ 1, Eff. Feb. 18, 1936.)

Sec. 4506-2, Ky. Stat. **Powers.** In Independent school districts embracing cities of the first, second and third classes which are already operating insurance and annuity systems, for teachers or for teachers and other employees, full authority to adopt, modify, change or revise the present systems, including pensions already granted, is by this act conferred upon the boards of education of such school districts, subject to the approval of the board or governing body of the existing system and subject also to the provisions hereinafter stated. (1936, c. 41; 1934, c. 65, Art. IX, ¶ 2, Eff. Feb. 18, 1936.)

Sec. 4506-4, Ky. Stat. **Regulations.** Each board of trustees of retirement systems in independent school districts embracing cities of the first, second and third classes may adopt, subject to the provisions of this act, such regulations as are necessary to the effective operation of the retirement systems without regard to regulations adopted by any other such board of trustees. (1936, c. 41; 1934, c. 65, Art. IX, ¶ 4, Eff. Feb. 18, 1936.)

Sec. 4506-6, Ky. Stat. **Contributions.** The participating teachers and other employees, and the board of education in districts in



which such retirement system is continued, reorganized or established may contribute to the retirement fund and the rates of the contribution shall be fixed by the board of trustees of the retirement system on the basis of careful actuarial investigations, and shall be adequate and sufficient to support the benefits granted in the system set up: provided that the total contribution of the board of education shall be at least the equal of the total contributions of the members of the system. The board of trustees of the retirement system may increase or decrease the rates of contribution whenever such action is deemed by them to be necessary to preserve the solvency and equity of the system as determined by actuarial studies, provided that the contribution of the board of education of a city of the first class shall in no case exceed the returns from a tax rate of four and one-half cents ( $4\frac{1}{2}c$ ) on each one hundred dollars (\$100) of assessed valuation subject to local school tax in said district, and that the contribution of a board of education of a city of the second or third class shall in no case exceed the returns from a tax rate of four cents ( $4c$ ) on each one hundred dollars (\$100) of assessed valuation subject to local school tax in said district. (1936, c. 41; 1934, c. 65, Art. IX, ¶ 6, Eff. Feb. 18, 1936.)

Sec. 4506-7, Ky. Stat. **Duty to levy tax.** It shall be the duty of the board of education in cities of the second and third classes, the board of aldermen in cities of the first class, or such other agency to which the General Assembly may in the future delegate the function of levying taxes for local school purposes in independent school districts embracing cities of the first, second and third classes, to levy the tax rate recommended by the board of trustees of the retirement system; provided that the rate of taxation in a city of the first class shall not exceed four and one-half cents ( $4\frac{1}{2}c$ ) on each one hundred dollars (\$100) of assessed valuation subject to local school tax in said district, and provided the rate of taxation in a city of the second or third class shall not exceed four cents ( $4c$ ) on each one hundred dollars (\$100) of assessed valuation subject to local school tax in said district. (1936, c. 41; 1934, c. 65, Art. IX, ¶ 7, Eff. Feb. 18, 1936.)

Sec. 4527-44, Ky. Stat. **Government of Teachers Colleges and Powers of Boards of Regents in Appointing Teachers.** The government, administration, and control of each of the said state teachers colleges is hereby vested in its respective board of regents which when its members have been appointed and qualified, shall constitute a body corporate and shall have perpetual succession with power to contract and be contracted with, to sue and be sued, to plead and be

impleaded, to receive by any legal mode of conveyance property of any description, and to have and to hold and enjoy the same; to receive grants of money and to expend the same for the use and benefit of the said college; also, to sell and convey any real estate, buildings, or equipment belonging to it, but the proceeds from such sale shall be reinvested in other real estate and/or buildings and equipment for the use and benefit of the said college; to make and use a corporate seal with power to alter and enjoy the same; to adopt by-laws, rules, and regulations for the government of their members, officers, agents, and employees, and to enforce obedience to such rules; to elect a secretary and a treasurer and to fix the bond of the treasurer which shall not be less than \$10,000, and the treasurer shall not be a member of the board of regents; to designate a depository or depositories for its funds and to fix the bond thereof; to require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time; to determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the said college; to invest the faculty or a committee of the faculty with the power to suspend or expel any student for disobedience to its rules; or for any other contumacy, insubordination, or immoral conduct; to appoint a president and, on the recommendation of the president, appoint, in its discretion, all officers, teachers, and employees and fix their compensation and tenure of service, provided no person shall be employed for a longer period than four years; and provided further that no person shall be employed who is related to any member of said Board of Regents, as father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, sister-in-law, or daughter-in-law, except that upon written recommendation of the President of the respective institution, one such relative of each member of the Board of Regents may be appointed upon confirmation by the remaining three members of said board; to dismiss any president and, upon the recommendation of the president, any officer, teacher, or employee for cause as hereinafter provided; to grant diplomas and confer degrees upon the recommendation of the president and the faculty, and to possess all other immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. (1936, c. 43; 1934, c. 65, Art. XI, ¶ 44, Eff. May 16, 1936.)

#### **State Aid for Negroes**

Sec. 4527-81, Ky. Stat. **State to pay tuition and fees outside of state.** That pending the full development of the educational institutions of the Commonwealth of Kentucky, all bona fide residents of

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this state at the time of making written application for the benefits provided in this act and have been such residents continuously for five (5) years next preceding the time of filing said application, and who are duly qualified for matriculation in courses of study offered at the University of Kentucky, but who, because of section one hundred eighty-seven (187) of the constitution of Kentucky cannot pursue such courses at the University of Kentucky or other state institutions at which such courses are offered, or who have otherwise qualified to pursue such courses therein, and who are now pursuing or may hereafter pursue such courses in educational institutions outside of the state whereof no courses of study are provided for such persons within this state, shall have their tuition and fees paid at such institution by the Commonwealth of Kentucky. (1936, c. 43, ¶ 1, Eff. Feb. 25, 1936.)

Sec. 4527-82, Ky. Stat. **Payments, how made.** That such tuition and fees be ascertained by the State Superintendent of Public Instruction and paid upon requisition of him out of funds not otherwise appropriated. (1936, c. 43, ¶ 2, Eff. Feb. 25, 1936.)

Sec. 4527-83, Ky. Stat. **State Board makes rules.** That the State Board of Education shall prescribe the rules and regulations governing the granting of state aid under this act. In the event the funds appropriated for the purpose of carrying out the provisions of this act are insufficient for the purpose in any year, said Board of Education shall have the right to prorate the same among such persons whose applications are approved therefor pursuant to the provisions of this act; and provided further, that not more than one hundred and seventy-five (\$175.00) dollars shall be allowed to any such person for the purposes and under the provisions of this act during any one school year of nine (9) months. (1936, c. 43, ¶ 3, Eff. Feb. 25, 1936.)

Sec. 4527-84, Ky. Stat. **Appropriations.** That for the purpose of carrying out the provisions of this act and for no other purpose, there is hereby appropriated for the State Board of Education of Kentucky, out of funds in the State Treasury not otherwise appropriated the following sums: five thousand (\$5,000) dollars for the fiscal year ending June thirtieth (30th) one thousand nine hundred thirty-seven; and five thousand (\$5,000) dollars for the fiscal year ending June thirtieth (30th) one thousand nine hundred and thirty-eight. (1936, c. 43, ¶ 4, Eff. Feb. 25, 1936.)

### REGULAR SESSION, 1938

#### Qualifications of Board Members

AN ACT to amend and re-enact Chapter 65, Article 5, Section 17 of the Acts

of the General Assembly of the Commonwealth of Kentucky enacted at its 1934 Regular Session and effective June 14, 1934. Said act relating to the qualifications of board members, and being edited as Section 4399-22, Baldwin's Kentucky Statutes, 1936 Edition.

That Chapter 65, Article 5, Section 17 of the Acts of the General Assembly of Kentucky at its Regular 1934 Session be amended and re-enacted and when so amended and re-enacted shall read as follows:

A person to be eligible to membership on a board of education must have attained the age of twenty-four years, must have been a citizen of the Commonwealth of Kentucky for at least three years preceding his election and must be a voter of the district for which he is elected. He must have completed at least the eighth grade in the common schools as shown (a) by the records of the school in which said eighth grade was completed; or (b) by affidavits of the teacher or teachers under whom the work was completed; or (c) by an examination to be held under such rules and regulations as may be adopted by the State Board of Education for holding such an examination. He must not hold or discharge the duties of any civil or political office, deputyship, or agency under the city or county of his residence. A board member shall be eligible for re-election unless he becomes disqualified as herein provided.

No member of a board of education shall vote regarding the appointment or employment in any capacity of any person related to such member as father, mother, brother, sister, husband, wife, son, daughter, nephew, niece, aunt, uncle, son-in-law, daughter-in-law, or first cousin, and the majority vote of the remainder of the board shall be required in case of appointment or employment of such person.

No person shall be eligible to this office who at the time of his election is directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended. If, at any time after the election of any member of such board, he shall become interested in any such contract with or claims against the board, or if he shall after election become a candidate for any office or agency for the nomination thereto, the holding and the discharging of the duties of which would have rendered him ineligible before election, or if he shall move his residence from the district for which he was chosen or if he shall do or incur anything which would have rendered him ineligible for re-election, his office shall without further action be vacant, and it shall be filled as hereinafter provided.



No person shall be eligible to serve as a member of a board of education who has been removed from membership on a board of education for cause.

All laws or parts of laws in conflict herewith are hereby repealed.

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### **Per Diem for Board Members**

AN ACT to amend Section 4399-32 Kentucky Statutes, Carroll's 1936 edition, relating to expenses of board members for attending meetings.

That Section 4399-32 Kentucky Statutes, Carroll's 1936 edition be repealed and re-enacted so that when repealed and re-enacted it shall read as follows:

Members of boards of education shall receive no salaries, but members of county boards of education may receive a per diem of five dollars (\$5.00) for each regular or special meeting attended and actual expenses for attending meetings, and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board but in no case shall such expense or per diem of any member exceed one hundred dollars (\$100.00) per year. All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board.

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### **Employment of Married Teachers**

AN ACT to prohibit the Board of Education or Superintendent of Public Schools of any city within this Commonwealth from adopting any rules or regulations or having any rules, regulations, laws or policy in the restraint of marriage of any public school teacher who has had five (5) years teaching experience within the public schools of this Commonwealth, and declaring and carrying into effect the public policy of this State with respect to marriage.

That whereas the contract of marriage is one of the most important of all human transactions, and being the very basis of the whole fabric of society; the marriage status and the freedom to enter into the contract of marriage is of vital interest to the public creating the most important relation in life.

That the Board of Education or the Superintendent of public schools of any city within this State shall be prohibited from having, adopting or making any rules, regulations, laws or policy in the restraint of marriage of any public school teacher who has had five (5) years or more teaching experience within the public schools of this State, and that marriage shall not be the ground of dismissal of any public school teacher, or the cancellation of any teachers' contract.

That all rules, regulations, laws or policies in conflict with this Act and the purpose thereof shall be of no effect; and it is hereby declared as the public policy of this State.

### Licenses for School Busses

AN ACT relating to revenue and taxation; and repealing, amending and re-enacting Section One (1) Chapter Sixty-Nine (69) of the Acts of the General Assembly of the Commonwealth of Kentucky passed at the regular session of the General Assembly which was begun in the City of Frankfort, Kentucky, on Tuesday, January ninth (9), one thousand nine hundred and thirty-six, and ended on Saturday, February fifteenth (15), one thousand nine hundred thirty-six, and entitled: "An Act relating to revenue and taxation; and repealing, amending and re-enacting Section One of Chapter Twenty (20) of the Acts of the General Assembly of the Commonwealth of Kentucky passed at the Extraordinary Session of the General Assembly which was begun in the City of Frankfort, Kentucky, on Wednesday, May ninth (9), one thousand nine hundred thirty-four (1934), and ending on Monday, July second (2), one thousand nine hundred and thirty-four (1934)."

Section 1. That Section One (1) of Chapter sixty-nine (69) of the Acts of the General Assembly of the Commonwealth of Kentucky passed at the Regular Session of the General Assembly which was begun in the City of Frankfort, Kentucky, on Tuesday, January seventh (7) and ended on Saturday, February fifteenth (15), One thousand nine hundred and thirty-six (1936) be repealed, amended and re-enacted so that when said Section is re-enacted it shall read as follows:

"That all motor vehicles, excluding such as are mentioned in subsection c of Section two thousand seven hundred thirty-nine g-2 (2739g-2), Carroll's Kentucky Statutes, one thousand nine hundred thirty (1930) Edition, and excluding motor vehicles engaged in hauling passengers for hire, are classified as trucks and the annual registration fee shall be as follows:

"Those having a capacity of one thousand pounds or less, ten (\$10.00) dollars; those having a capacity of more than one thousand pounds and up to two thousand pounds, twenty-two (\$22.00) dollars; those having a capacity of more than two thousand pounds and up to three thousand pounds forty (\$40.00) dollars; those having a capacity of more than three thousand pounds and up to four thousand pounds, fifty-two (\$52.00) dollars; those having a capacity of more than four thousand pounds and up to five thousand pounds, sixty-three (\$63.00) dollars; those having a capacity of more than five thousand pounds and up to six thousand pounds, seventy-one (\$71.00) dollars; those having a capacity of more than six thousand



pounds and up to seven thousand pounds, ninety-three (\$93.00) dollars; those having a capacity of more than seven thousand pounds and up to eight thousand pounds, one hundred and twelve (\$112.00) dollars; those having a capacity of more than eight thousand pounds and up to nine thousand pounds, one hundred and thirty-eight (\$138.00) dollars; those having a capacity of more than nine thousand pounds and up to ten thousand pounds, one hundred and eighty-seven (\$187.00) dollars; those having a capacity of more than ten thousand pounds, two hundred and thirty (\$230.00) dollars; and twenty-five (\$25.00) dollars for each additional ton or fraction of a ton in excess of ten thousand pounds. The applicant for license for a motor truck shall state in his application the capacity of the truck.

“Providing that any person who applies for the registration of a truck having a capacity of three thousand pounds or less, in addition to the requirements to secure registration for said truck, files with the county court clerk an affidavit stating that he is a farmer solely engaged in the production of crops, livestock or dairy products, and that he owns a truck of the capacity of three thousand pounds or less, and that he has caused to be printed upon each side of the bed of said truck the words “Farmer’s Truck”, in red letters not less than three (3) inches in height, and that said truck for the next twelve months shall not be used in the transportation of anything for hire but is to be used only in transporting persons, food provender, feed and machinery used in operating his said farm and the products grown upon said farm, and for no other purpose; then, in that event said person shall be permitted to register said truck and shall be charged therefor only four dollars and fifty cents (\$4.50).

“Providing that any person who applies for the registration of a truck used solely in the transporting, hauling and carrying school children or persons employed in said school or schools in the district shall file with the County Court Clerk an affidavit stating that the truck or trucks are engaged solely in the transporting, hauling or carrying of said school children and persons employed in said school or schools in said district or districts and that he has caused to be printed on each side of the bed of said truck and on the rear door or doors or part of the bed the words “School Bus” in letters of a color easily seen and sufficiently large and that said truck for the next twelve months shall not be used for any other purpose except that stated; then, in that event said person or persons shall be permitted to register said truck and shall be charged therefor only four dollars and fifty cents (\$4.50).

All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 2. That if any proviso in this Act shall be held unconstitutional or invalid, it shall not affect any of the remaining part of said Section; that it is the intention of the General Assembly that the remaining part of said Section shall be held in full force and effect, regardless of any proviso contained herein.

#### **Transfer of Part of Independent District to County District.**

AN ACT relating to the transfer of school districts or parts of districts.

The boards of education in independent school districts in incorporated cities, where the independent district boundaries extend beyond the city boundaries, may by joint and concurrent action with the county board of education of the county wherein the independent district is located, transfer to the county district any portion of the area of the independent district outside the corporate limits of the city.

Provided, however, that no transfer shall be made if such transfer would reduce the number of census pupils of the independent district to less than 250 in number.

#### **Time for Filing Credits to Renew Certificates**

AN ACT setting the time for renewing certificates and for meeting renewal requirements.

That the State Board of Education shall have authority to renew any certificate for teaching or for holding administrative position which expires on June 30 of any year provided renewal requirements have been completed and filed with the Superintendent of Public Instruction before September 1 of the year in which the certificate expires.

All laws and parts of laws in conflict with this act are hereby repealed.

#### **Classifying Cities.**

AN ACT to amend and Re-enact Section Two Thousand Seven Hundred and Forty (2740), Kentucky Statutes, one thousand nine hundred and thirty-six (1936) Edition, also Chapter 71 of the Acts of the General Assembly of Kentucky of 1936, relating to the classification of Cities.

Section 1. That Section Two Thousand Seven Hundred and Forty (2740), Kentucky Statutes, Carroll's Official One Thousand Nine Hundred and Thirty Six (1936) Edition, and Chapter 71 of the Acts of the General Assembly of 1936 and the same is hereby amended and re-enacted by adding to the names of municipalities of the Fifth Class immediately following the words "Park Hills,



Kenton County", the words "Southgate, Campbell County; Evarts, Harlan County; Benton, Marshall County", so that when so amended and re-enacted said section shall read as follows:

First Class: Louisville, Jefferson County.

Second Class: Lexington, Fayette County; Covington, Kenton County; Newport, Campbell County; Paducah, McCracken County; Ashland, Boyd County.

Third Class: Owensboro, Daviess County; Henderson, Henderson County; Frankfort, Franklin County; Bowling Green, Warren County; Middlesboro, Bell County; Hopkinsville, Christian County; Maysville, Mason County; Corbin, Whitley County and Knox County.

Fourth Class: Shelbyville, Shelby County; Richmond, Madison County; Winchester, Clark County; Dayton, Campbell County; Paris, Bourbon County, Catlettsburg, Boyd County; Danville, Boyle County; Mt. Sterling, Montgomery County; Georgetown, Scott County; Versailles, Woodford County; Harrodsburg, Mercer County; Bellevue, Campbell County; Cynthiana, Harrison County; Mayfield, Graves County; Lebanon, Marion County; Ludlow, Kenton County; Nicholasville, Jessamine County; Pineville, Bell County; Madisonville, Hopkins County; Princeton, Caldwell County; Fulton, Fulton County; Lawrenceburg, Anderson County; Russellville, Logan County; Carrollton, Carroll County; Central City, Muhlenburg County; Franklin, Simpson County; Barbourville, Knox County; Providence, Webster County; Morganfield, Union County; Pikeville, Pike County; Somerset, Pulaski County; Murray, Calloway County; Jackson, Breathitt County; Elizabethtown, Hardin County; Hazard, Perry County; Hickman, Fulton County; Scottsville, Allen County; Earlington, Hopkins County; Olive Hill, Carter County; Irvine, Estill County; Marion, Crittenden County; Fort Thomas, Campbell County; Russell, Greenup County; Harlan, Harlan County; Paintsville, Johnson County; Sturgis, Union County; Prestonsburg, Floyd County; Greenville, Muhlenberg County.

Fifth Class: Lancaster, Garrard County; Cadiz, Trigg County; Grand Rivers, Livingston County; Columbus, Hickman County; Glasgow, Barren County; Cloverport, Breckinridge County; Bardstown, Nelson County; Augusta, Bracken County; Stanford, Lincoln County; Williamsburg, Whitley County; Clinton, Hickman County; Midway, Woodford County; Flemingsburg, Fleming County; Vanceburg, Lewis County; Elkton, Todd County; Falmouth, Pendleton County; Carlisle, Nicholas County; Uniontown, Union County; Campbellsville, Taylor County; Hawesville, Hancock County; Emi-

nence, Henry County; Eddyville, Lyon County; Leitchfield, Grayson County; Owingsville, Bath County; Sebree, Webster County; Clay, Webster County; Wickliffe, Ballard County; Morehead, Rowan County; Bardwell, Carlisle County; Dawson Springs, Hopkins County; Millersburg, Bourbon County; Calhoun, McLean County; Springfield, Washington County; Corydon, Henderson County; Hartford, Ohio County; Morton's Gap, Hopkins County; Livermore, McLean County; Beattyville, Lee County; Owenton, Owen County; Burnside, Pulaski County; Warsaw, Gallatin County; Monticello, Wayne County; Berea, Madison County; LaGrange, Oldham County; Tompkinsville, Monroe County; Hellier, Pike County; Perryville, Boyle County; Wilmore, Jessamine County; Greenup, Greenup County; Horse Cave, Hart County; Brooksville, Bracken County; Whitesburg, Letcher County; Columbia, Adair County; Elkhorn City, Pike County; Manchester, Clay County; Beaver Dam, Ohio County; Ravenna, Estill County; Louisa, Lawrence County; Burkesville, Cumberland County; London, Laurel County; Cumberland, Harlan County; Grayson, Carter County; Neon, Letcher County; Raceland, Greenup County; Williamstown, Grant County; Salyersville, Magoffin County; Nortonville, Hopkins County; Park Hills, Kenton County; Southgate, Campbell County; Evarts, Harlan County; Benton, Marshall County.

Section 2. Whereas, it is necessary for the assigned cities mentioned herein to make its tax levy for this year under the charter of the town to which it has been assigned, an emergency is hereby declared to exist, and this Act shall take effect and be in full force and effect from and after its passage, and approval by the Governor.

All Acts, or parts of Acts, inconsistent herewith are hereby repealed.

#### **Tax on Distilled Spirits in Cities of the First Class.**

AN ACT to amend Section 4, Article VI of Chapter 22 of the Acts of the General Assembly of 1906, being Section 4108 of Baldwin's 1936 Edition of Carroll's Kentucky Statutes, by providing for the ad valorem taxation of Distilled Spirits by counties, cities and school districts and providing for a special rate of taxation on such spirits in cities of the first class permitting of a referendum and fixing the methods thereof.

That Section 4 of Article VI of Chapter 22 of the Acts of the amended to read as follows:

General Assembly of 1906, being Section 4108 of Baldwin's 1936 Edition of Carroll's Kentucky Statutes, be and the same is hereby  
"Section 4108. Values Certified to Auditor and Clerk.—Im-



mediately after finally fixing such values, the board shall certify to the auditor of public accounts the value of the spirits as assessed for state tax; and said officer shall certify to the said county clerk of the respective counties, the amount liable for county, city, town or district taxation, and the date, when the bonded period will expire on such spirits. The report shall be by the county clerk filed in his office, and by him certified to the proper collecting officer of the county, city, town or taxing district for collections.

“Said spirits, in addition to the tax thereon for state purposes, shall be taxed for county purposes, school purposes and town and city purposes at the prevailing rates of taxation on tangible personal property in the respective counties, school districts, towns and cities in which such spirits are warehoused or stored; provided, however, that the combined rate of taxation for city purposes and school purposes in cities of the first class shall not exceed one dollar and twenty five cents (\$1.25) on each one hundred dollars (\$100.00) of assessed value of such spirits.”

In event a referendum is desired upon this Act, then such referendum shall be conducted in all things in the manner provided in Chapter Eight of the Acts of the General Assembly of One Thousand Nine Hundred and Seventeen.

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### **Providing a Sinking Fund for Building Purposes in Cities of the First Class.**

AN ACT providing for the levy of a tax by Cities of the First Class to provide a fund for Boards of Education in Cities of the First Class for the purchase of sites for school buildings, for the erection of school buildings and the complete equipping thereof and for the major alteration and enlargement of existing buildings and the complete equipping thereof.

Section 1. That in addition to other taxes now levied by Cities of the First Class for school purposes, said Cities may annually levy a tax of not less than four (4) cents nor more than ten (10) cents on each One hundred (\$100) dollar valuation of property assessed by said Cities, to provide a fund for Boards of Education in Cities of the First Class for the purchase of sites for school buildings, for the erection of school buildings and the complete equipping thereof and for the major alteration and enlargement of existing buildings and the complete equipping thereof.

Section 2. The proceeds from said taxes when collected by said Cities shall be paid over to the Boards of Education in said Cities, and may be accumulated over a period of years. Such taxes shall

be kept in a separate account designated as "School Building Fund", and shall be used only for the purposes enumerated in Section 1 hereof, and at such times as the Board shall determine.

Section 3. Said fund shall be kept in the selected depository or depositories of the Boards, or invested in bonds of the United States Government, Commonwealth of Kentucky or of said Cities of the First Class. Such bonds may be sold by the Boards when necessary to provide cash for said building fund.

Section 4. All expenditures from said fund for the purchase of sites, for the erection of school buildings and the equipping thereof, or the alteration or enlargement and equipping thereof, shall be made in accordance with the general school laws of the Commonwealth of Kentucky.

Section 5. The Boards of Education in said Cities shall annually file a report with the Mayor thereof, showing the condition of said fund, together with a detailed report of all expenditures.

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#### **Contracting with Private Institutions for Commercial Education in Cities of the Third Class.**

AN ACT providing for City School Boards in Cities of the Third Class to make contracts with private institutions for the instruction of students in city schools to obtain a commercial education, and providing for the payment of such instruction from the city school funds.

Section 1. In any city of the Third Class any City School Board is hereby authorized and empowered to enter into and make a contract with any private institution for the instruction of the students in the city schools of said city, provided that said private institution offers a course of study which has been approved by the State Board of Education as an accredited high school course in commercial subjects.

Section 2. Such City School Board is hereby authorized and empowered to provide in said contract the amount of such compensation to be paid for such instruction and the manner in which payment shall be made and the time of such payments.

Section 3. All laws and parts of laws in conflict herewith are hereby repealed.

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#### **Traffic Must Stop for School Busses Receiving and Discharging Passengers.**

AN ACT requiring the operators of all vehicles to stop before passing a



school bus upon a public highway which shall be stopped for the purpose of receiving or discharging passengers, and providing penalty for violation.

Whenever any school bus is stopped upon a public highway for the purpose of receiving or discharging passengers, every operator of a vehicle approaching from any direction on the same highway shall bring said vehicle to a complete stop and shall not start up or attempt to pass until the said school bus has finished receiving or discharging passengers; that the driver of said bus after having stopped for the purpose of receiving or discharging passengers shall permit all vehicles stopped as required herein to proceed before again putting the school bus in motion; and anyone found guilty of violating the provisions of this Act shall be deemed guilty of a misdemeanor, and punished upon conviction by a fine of not more than Five Hundred (\$500.00) Dollars or imprisoned in jail for not more than six months or both so fined and imprisoned.

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**Independent District Not Emergency District Unless Census Less Than 200.**

AN ACT amending Chapter forty-two (42) of the Acts of the General Assembly of nineteen thirty-six (1936), being Section four thousand three hundred ninety-nine-three (4399-3), Carroll's Kentucky Statutes, 1936 edition relating to independent school districts.

That Chapter forty-two (42) of the Acts of the General Assembly of nineteen thirty-six (1936) being Section four thousand three hundred ninety-nine-three (4399-3), Carroll's Kentucky Statutes, 1936 Edition, be and the same hereby is amended by repealing said Section in its entirety and re-enacting same so that as amended and re-enacted said Section will read as follows, to wit:

Section 4399-3. **Independent school districts.** All school districts embracing cities of the first five classes together with the territory within their limits, including any territory which has heretofore been added for school purposes outside of the limits of such cities or districts, and any territory which may be included by any future change in the limits of such cities, and all independent graded common school districts having a school census enumeration of **two hundred (200)** or more white children shall hereafter be known and designated as independent school districts, provided that no such district other than cities of the first, second, third, fourth, and fifth classes, operating as independent districts at the time this Act be-

comes effective, shall continue to operate when its school census enumeration of white children falls below **two hundred (200)** pupils unless it appears to the State Board of Education that the district can maintain a more efficient program of school service by operating as an independent district. The State Board of Education may permit an independent graded common school district existing at the time of the passage of this Act with a census enumeration of white children below **two hundred (200)** to operate as a temporary independent school district for **one-year** periods beginning with July first (1), **nineteen thirty-eight (1938)**, if it appears to the State Board of Education that such district can maintain a more efficient program of school service by operating as a temporary independent district, and the decision of the State Board of Education shall be final; provided, at the end of each **one-year** period the State Board of Education may permit such independent district to operate for an additional **one-year** period on the condition that such inspection as the State Board of Education may make shows that it is operating a school in accordance with the school law and the standards, rules, and regulations set up by the State Board of Education. The State Board of Education may by order make any temporary independent school district a part of the county district whenever the same is not complying with the school law and the standards, rules, and regulations of the State Board of Education, and after it has been given a reasonable time, to be fixed by the State Board of Education, within which to so comply. The first application of such district to operate as a temporary independent district shall be filed with the State Board of Education not later than July first (1), **nineteen thirty-eight (1938)**. Each subsequent application of such independent district to operate as a temporary independent district for an additional **one-year** period shall be filed with the State Board of Education not later than May first (1). Each independent school district shall maintain at least an approved twelve-grade school service for the white children residing in its district. Provided, however, any independent school district that maintains within the district at least an approved ten-grade school service for the white children residing in its district, may furnish free transportation for white children residing within the district to attend school in an adjoining district for completing the eleventh and twelfth grade school work and provide by contract with an adjoining district, which maintains at least an approved twelve-grade program of school service, for such children procuring eleventh and twelfth grade service in such adjoining district. Provided further that each



independent school district shall provide by establishment or by contract with another district for at least an approved twelve-grade program of school service for its colored children.

All laws in conflict herewith are hereby repealed.

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### **Providing for Tuition of Children of Soldiers, Sailors, and Marines.**

AN ACT providing educational opportunities for the Orphans of Soldiers, Sailors, and Marines who were killed in action or died during the World War, and appropriating necessary money therefor from General Fund.

Section 1. The sum appropriated under the provisions of the act shall be used for the sole purpose of providing for matriculation fees, board and room rent and books and supplies for the use and benefit of the children not under sixteen and not over twenty-two years of age; and who have for twelve months had their domicile in the State of Kentucky, of those World War veterans who were killed in action or died from other causes in the World War, from April 6, 1917 to July 2, 1921, while serving in the army, navy or marines corps of the United States as a result of such service; which orphans are attending or may attend a state educational institution of a secondary or college grade. Said children shall be admitted to state institutions of secondary or college grade free of tuition.

Section 2. The amounts that may be or may become due at any educational or training institution, not in excess of the amount specified in section three thereof, shall be payable to such institution or school from the funds hereby created on vouchers approved by the State Board of Education. Said Board shall determine the eligibility of the children who make application for the benefits provided for in this act; satisfy itself of the attendance of such children at any such institution or school and of the accuracy and reasonableness of the charge or charges submitted to said Board by the authorities of any such institution, on account of the attendance thereat of any such children; provided no member of said Board or its Secretary shall receive any compensation for such services.

Section 3. The sum of one thousand four hundred dollars, or so much thereof as may be necessary, is hereby appropriated from the general fund for each of the fiscal years ending June 30, 1939, and June 30, 1940, for carrying out the provisions of this act; provided not more than one hundred fifty dollars shall be paid under said provisions for any one child for any one school year. And provided further that in the event all of said fund is not consumed in

providing scholarships for war orphans attending state owned institutions of learning, then and in the event the State Board of Education, in the exercise of a wise and sound discretion and on recommendation of the Commander of The American Legion, Department of Kentucky, may appropriate said balance, if any, to eligible war orphans who desire to enroll in vocational, technical or business schools; provided further that not more than six scholarships in such schools may be so awarded in any one year.

## EXTRAORDINARY SESSION, 1938

### Teacher Retirement.

AN ACT providing a Teachers Retirement System for the State of Kentucky; providing for retirement allowances for teachers of State supported Colleges, Public Schools, (including all elementary and secondary schools of the state); providing for disability benefits for disabled teachers of such schools; providing that the funds for the payment of retirement annuities to teachers and for disability benefits shall be raised by contributions from the teachers and by contributions from the State of Kentucky from its general funds; providing for the repeal of Section 4506A-1 through and including Section 4506A-15; and providing for the administration and management of the retirement system and all funds created for its maintenance and support, by a Board of Trustees to be selected under the supervision of the Superintendent of Public Instruction, by a vote of the members of the system. This Act shall be known as the Porter-Rayburn Act.

Section 1. A state teachers' retirement system is hereby established for the teachers of the public schools of the state of Kentucky for the purpose of providing retirement allowances and other benefits under the provisions of this act. The retirement system herein created shall be established as of July 1, 1940. It shall have the powers and the privileges of a corporation and shall be known as the "Teachers' Retirement System of the State of Kentucky," and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and other securities held.

Section 2. **Definitions.** The following words and phrases, as used in this act, unless different meanings are plainly required by the context, shall have the following meanings:

1. "Retirement System" shall mean the arrangement provided for in this act for the payment of retirement allowances or disability allowances to teachers, officially known as the Teachers' Retirement System of the State of Kentucky.

2. "Retirement Allowance" shall mean the amount annually



payable during the course of his natural life to the member who has been retired by reason of superannuation.

3. "Disability Allowance" shall mean the amount annually payable before the deductions authorized in Section 45 during the course of his natural life to a member who has been retired by reason of disability before reaching the age of sixty (60) years.

4. "Teacher" shall mean any full-time regular or special teacher who is engaged in the service of the public elementary and secondary schools for whom certification is required as a condition of employment, and who is engaged in actual class room instruction; all members of the staffs of Eastern Kentucky State Teachers College at Richmond, Kentucky, Western Kentucky State Teachers College at Bowling Green, Kentucky, Murray State Teachers College at Murray, Kentucky, Morehead State Teachers College at Morehead, Kentucky, Kentucky School for the Deaf at Danville, Kentucky, Kentucky School for the Blind at Louisville, Kentucky, West Kentucky Industrial College for Colored Persons at Frankfort, Kentucky, who are engaged in actual class room instruction; any member of a local retirement system who becomes a member of the state retirement system according to the provisions of section 49 of this Act, and who is employed in actual class room instruction.

5. "Present Teacher" shall mean any teacher as defined in this act, (a) who was a teacher on or before the first day of July, 1940, and who became a member of the retirement system created by this act on the date of the inauguration of the system or within one year after said date, (b) any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and who continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state retirement system.

6. "New Teacher" shall include any teacher not a present teacher.

7. "Prior Service" shall mean the number of years during which the member was a teacher in the public schools of Kentucky prior to his membership in the state retirement system, as allowed in his "prior service certificate."

8. "Subsequent Service" shall mean the number of years during which the teacher is a member of the state retirement system.

9. "Prior Service Certificate" shall mean the certificate issued by the board of trustees of the state teachers' retirement system

designating the amount of accredited service of a member prior to his membership in the state retirement system.

10. "Annual Salary" shall mean the average annual salary which the member has received for his services as a teacher in the public schools of Kentucky during the five years immediately preceding retirement by reason of superannuation or disability, except that any salary which exceeds \$2,000 in any year shall be considered as \$2,000 only.

11. "Age of Retirement" shall mean the age attained at the last birthday of the member preceding the date of retirement.

12. "Regular Interest" shall mean interest at three per cent per annum compounded annually.

13. "Accumulated Contributions" shall mean the contributions of a member plus interest at three per cent compounded annually.

14. "Annual Compensation" shall mean the contractual salary and additions thereto received by a member as compensation for his services as a teacher in the public schools of the state during a given fiscal year before any deductions whatever, except that any such compensation which exceeds \$2,000 shall for the purpose of this act be considered at \$2,000 only.

15. "Age of Entrance" shall mean the age attained at the last birthday of any member at the time of the establishment of this system, if such member is a teacher subject to this act at that time. Otherwise, it shall mean the age attained at the last birthday of any member at the time he first becomes a member of the state retirement system.

16. Any birthday occurring on the 29th day of February shall be considered as of February 28th.

17. "Annuitant" shall mean a person who receives a retirement allowance or a disability allowance.

18. "Local Retirement System" shall mean any teacher retirement or annuity system created in any public school district in the state of Kentucky in accordance with the laws of the state.

19. "Fiscal Year" shall mean the twelve-month period from July 1 to June 30.

**Section 3. School districts and institutions included.** The retirement system herein created shall embrace (a) all of the public elementary and secondary schools of the state, except those in school districts which previous to the establishment of this retirement system have established and maintained local teacher retirement or



annuity systems, provided that school districts in which local teacher retirement systems are in operation at the time of the establishment of the retirement system created by this act may be included in the state retirement system according to the provisions of Section 49 of this act, (b) institutions and offices included in Section 2 of this act.

Section 4. **No district retirement systems may hereafter be established.** No school district shall hereafter establish a teacher retirement system under the provisions of Sections 4506-1 to 4506-16, of the Kentucky Statutes inclusive.

Section 5. **Repeal of existing retirement laws.** Section 4506a-1 through Section 4506a-15 of the Kentucky Statutes are hereby repealed.

Section 6. **Administration and management vested in board.** The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective the provisions of this act are hereby vested in a board of trustees, which shall be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky." The members of the board of trustees shall be the Superintendent of Public Instruction, the Attorney General, and the State Treasurer, ex officio, and four other members elected as hereinafter provided, three of whom shall be members of the retirement system, hereinafter known as teacher members, and one of whom shall be a person who is not a member of the teaching profession, hereinafter known as the lay member, provided that the first board of trustees elected after the enactment of this act shall consist of the above named ex officio members; and four other members, three of whom shall be teachers as defined in this act, and one of whom shall be a person who is not a member of the teaching profession.

Section 7. **Election of members.** The first election of the elective members of the board of trustees shall be conducted by ballot under the supervision of the Superintendent of Public Instruction within sixty (60) days after the passage of this act. At the first election each teacher in the schools embraced by this act shall be deemed to be a member of the retirement system and shall have the right to vote for four candidates for membership on the board of trustees. Nominations for members on the board of trustees shall be made by a nominating committee consisting of one delegate elected by the membership of each of the districts of the Kentucky Education Association, the president of the Kentucky Negro Education Association, and one member appointed by him from the membership of the Kentucky Negro Education Association. The presi-

dent of the Kentucky Education Association shall preside over the meetings of the nominating committee. Two nominations shall be made by the nominating committee for each position to be filled on the board of trustees and provision shall be made on the ballot for additional nominations by members of the retirement system. At the first election the members of the retirement system shall elect three teacher members, at least one of whom shall be a classroom teacher, and one lay member. The members so elected, together with the ex officio members shall assume office on July 1, 1939. The lay member so elected shall serve for a term of four years. The three teacher members so elected shall serve for terms of one, two, and three years, the length of term of the individual members to be determined by lot.

Subsequent elections shall be held on or before June 1 of each year. After the first election the length of term of all elective members shall be for a period of four years, one member to be elected annually. Members so elected shall assume office on July 1 following election. Subsequent to the first election, members of the nominating committee shall be members of the retirement system and only members of the retirement system shall be entitled to vote for members of the board of trustees. Should the president of the Kentucky Negro Education Association be ineligible to serve on the nominating committee, he shall appoint a qualified member to serve in his stead from the membership of the retirement system.

Section 8. **Vacancies.** Vacancies occurring during the terms of the elective members shall be filled by the remaining members of the board of trustees by election for the unexpired terms.

Section 9. **Compensation and expenses.** The members of the board of trustees shall serve without compensation, but they shall be reimbursed from the expense fund for all necessary expenses which they may incur through services on the board.

Section 10. **Oath of office.** Each member of the board of trustees shall within ten (10) days after his appointment or election take an oath of office that he will support the Constitution of the United States and the Constitution of the State of Kentucky, and that he will diligently and honestly administer the affairs of said board and that he will not knowingly violate or willingly permit to be violated any provisions of the law applicable to the retirement system. Such oath of office shall be subscribed to by the members making it and certified to by the officer before whom it is taken, and shall be immediately filed in the office of the Secretary of State.

Section 11. **Quorum.** A majority of the board of trustees



shall constitute a quorum. Each trustee shall be entitled to one (1) vote. Four (4) votes shall be necessary for a decision by the trustees at any meeting of the board.

Section 12. **Rules and regulations.** Subject to the limitations of this act the board of trustees shall from time to time establish rules and regulations for the administration of the funds created by this act and for the transaction of business.

Section 13. **Chairman, secretary, and personnel.** The board of trustees shall elect from its membership a chairman and shall by a majority vote of all of its members appoint a secretary who shall not be a member of the board. It shall engage such actuarial, legal, medical, and other technical services and such clerical and other services as shall be required to transact the business of the retirement system.

The compensation of all persons engaged by the board of trustees and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board of trustees shall approve.

Section 14. **Bonds of employees of board.** The secretary of the state teachers' retirement system shall give a surety bond in such amount as the board of trustees shall designate. The board of trustees may require surety bonds of any other of its employees, and in such amounts, as it may deem necessary for the protection of the retirement funds.

Section 15. **Cost of administration.** The cost of administration of the retirement system shall be paid out of an expense fund established for that purpose by the board of trustees of the retirement system.

Section 16. **Office at state capital.** Suitable office quarters shall be provided by the State of Kentucky for the operation of the retirement system, such quarters to be located at the state capital.

Section 17. **Data for actuarial valuation.** The board of trustees shall keep in convenient form such data as shall be necessary for the actuarial valuation of the various funds of the retirement system and for determining the administrative costs of the retirement system.

Section 18. **Record of proceedings: annual report.** The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall publish on or before the first day of January of each year a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system, and the last balance

sheet showing the financial condition of the system by means of an actuarial valuation of its assets and liabilities, and giving an account of the operation of the system.

Section 19. **Ex-officio officers.** The State Treasurer, the State Auditor and the Attorney General shall be ex-officio treasurer, auditor, and legal adviser, respectively, of the board of trustees and shall be liable, respectively, upon their official bonds for the faithful performance of their duties under the provisions of this act and shall serve without compensation; provided that in case of emergency or whenever they shall deem it for the best interests of the retirement system the board of trustees may employ attorneys and auditors and pay reasonable fees for the services rendered.

Section 20. **Medical director.** The board of trustees shall designate a medical director. The medical director shall arrange for and pass upon all medical examinations required under the provisions of this act; shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability allowance; and shall report in writing to the board of trustees his conclusions and recommendations upon all such matters referred to him; provided that nothing in this act shall prevent the board of trustees from acquiring such additional medical advice and information as it shall deem necessary.

Section 21. **Actuary.** The board of trustees shall designate as an actuary a competent person who shall be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of this act and who shall perform such other duties as are required in connection therewith.

During the first year of operation of the retirement system and at least once in each five (5) year period thereafter the actuary shall make an actuarial investigation into the mortality, earnable interest, and service and compensation of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the funds of the system, and shall recommend to the board of trustees such changes as may be deemed necessary to keep the retirement system on a sound financial basis.

On the basis of the results of such investigations the board of trustees shall make such necessary changes in the retirement system within the provisions of this act and shall recommend the contributions payable by the state, provided that such contributions may not be in excess of those specified in Section 38 of this act.

Section 22. **Board to be trustee of the funds; investment; collection of interest.** The board of trustees shall be the trustee of the



several funds created by this act and such board shall have full power and responsibility for the investment and disbursement of the funds of the system according to the provisions of this act, provided that the laws governing the investment of funds of insurance companies shall apply to the investment of retirement funds and provided further that the purchase of all securities, and all disbursements shall be authorized by a resolution adopted by the board.

The board of trustees shall hold regular meetings on the first Saturday in January, April, July, and October of each year, and may hold as many other meetings as may be found necessary to transact properly the business of the retirement system. Special meetings may be called by the chairman of the board either on his own initiative or he shall call such meeting at the request in writing of four (4) other members of the board of trustees. At each regular meeting the board of trustees, shall authorize, as provided in this act, payment of retirement allowances, and it shall authorize the payment of disability allowances, salaries, and other regular disbursements to be made during the succeeding three (3) months. Retirement allowances and disability allowances shall be paid quarterly.

Section 23. **The State Treasurer the custodian of funds.** The State Treasurer is hereby designated as the custodian of all funds of the retirement system. He shall honor and pay all vouchers drawn on the retirement funds for all purposes when there is attached to such vouchers certified copies of resolutions of the board authorizing the respective payments. All securities purchased by order of the board of trustees shall be forthwith placed in the hands of the treasurer and it shall be his duty to collect the interest thereon as the same becomes due and payable and also the principal thereof and place the same when so collected into the guarantee fund herein provided for. The Treasurer of the state shall honor and pay all vouchers drawn on the retirement funds for the payment of securities purchased upon order of the board, upon delivery of such securities to him, when there is attached to such vouchers certified copies of resolutions of the board authorizing the purchases; and the board may sell any of said securities upon like resolution, and the proceeds thereof shall be paid by the purchaser to the Treasurer of the state upon delivery to him of said securities by the Treasurer. All payments from the several funds of the retirement system shall be made only upon vouchers signed by the secretary of the retirement system.

Section 24. **Interest on funds.** At the end of each fiscal year the board of trustees shall assign from the guarantee fund to each

of the funds, with the exception of the expense fund, interest at a rate of three per cent on the average amount of such funds during that fiscal year. The amounts so allowed shall be due and payable to said funds, and shall be annually credited thereto by the board of trustees from interest and other earnings on moneys of the retirement system

Section 25. **Cash on deposit.** For the purpose of meeting disbursements for allowances and other payments there may be left available cash on deposit in such sums as the board of trustees may direct in one or more banks or trust companies of the state of Kentucky organized under the laws of the state of Kentucky or the United States.

Section 26. **Beneficial interest in investments prohibited to officers.** Except as otherwise provided in this act, no trustees and no employees of the board of trustees shall have any direct or indirect interest in the gain or profits of any investment made by the board of trustees. No trustee or employee of the board shall directly or indirectly for himself or as an agent in any manner use any of the assets of the retirement system, except to make such current and necessary payments as are authorized by the board of trustees; nor shall any trustee or employee of the board of trustees become an endorser or surety, or in any manner an obligor for moneys loaned to or borrowed from the board of trustees, or otherwise profit from any transaction of the board.

Section 27. **Merging of state and local systems.** The teachers of a local school district in which a teachers' retirement or annuity system is maintained under the provisions of the laws of Kentucky are hereby excluded from membership in the state retirement system; but should a majority of all the teachers participate in any such local retirement system apply for membership in the state retirement system created by this act by a petition duly signed and verified, approved by their local board of education, and filed with the board of trustees, all the members of such local retirement system may become members of the state retirement system created by this act at such time within three (3) months after the filing of such petition and after compliance with other provisions of this act relative to the dissolution and discontinuance of local retirement systems, as the board of trustees shall designate.

Section 28. **Membership a condition of employment: exemptions.** The membership of the retirement system shall consist of the following: (a) all present teachers except those who have filed with the chief school officers of the district or institution in which they



are employed statements declining membership, as provided in Section 29 of this act, or teachers who are excluded by the provisions of this act, and (b) it shall be optional with all teachers to become members of the retirement system.

**Section 29. Present teachers may decline membership.** Any present teacher, as defined in this act, may decline membership in the state teachers' retirement system who on or before July 1, 1940 files with the chief school officer of the district or institution in which he is employed a statement that he does not wish to be a member of the system and waives all advantages in the retirement system which would accrue to him by reason of prior service, provided such statement may be withdrawn by the teacher within one year from the date of the establishment of the system and all prior-service rights restored upon payment of the contributions with regular interest thereon which he would have paid, if he had entered the system at its inauguration.

**Section 30. Statement upon becoming member.** Each public school employee, upon becoming a member of the retirement system, shall file a detailed statement of all of his previous service as a public school employee, his date of birth and age at entrance into the system, salary received as a public school employee in Kentucky, and such other facts as the board of trustees may require for the proper operation of the retirement system.

**Section 31. Verification of statement.** To the extent to which it is used in determining the liability of any fund created by this act, the board of trustees shall verify such statement by the best evidence it shall be able to obtain. If official records are not available as to length of service, age, salary, or other information required for the administration of this act, the board of trustees is hereby empowered to use its discretion as to the evidence to be accepted.

When all the statements have been properly verified and recorded, the secretary of the retirement system shall issue to each member a certificate of membership in the retirement system.

**Section 32. Prior service.** Under such rules and regulations as the board of trustees shall adopt each member who was a teacher at any time during the school year immediately preceding the establishment of the system or its extension to the district where the member is teaching, and who becomes a member during the first year of operation of the retirement system, shall file a detailed statement of all service as a teacher rendered by him prior to the date of establishment for which he claims credit.

The board of trustees shall fix and determine by appropriate

rules and regulations how much service in any year is equivalent to one year of service but in no case shall more than one year of service be creditable for all service in one calendar year. Service rendered for the regular school year in any district or institution shall be equivalent to one year's service.

Subject to the above restrictions and to such other rules and regulations as the board of trustees may adopt, the board of trustees shall verify as soon as practicable after the filing of such statements of service, the service therein claimed, and in addition the salary for each of the last five years of service preceding the inauguration of the system

Upon verification of the statements of service the board of trustees shall issue prior-service certificates certifying to each member the length of prior service rendered with which he is credited on the basis of his statement of service. So long as membership continues a prior-service certificate shall be final and conclusive evidence of such service, provided, however, that on evidence of error any member may, within one year from the date of issuance or modification of such certificate, request the board of trustees to modify or correct his prior-service certificate.

When membership ceases, the prior-service certificate shall become void. Should the teacher again become a member, such teacher shall enter the system as a member not entitled to prior-service credit except as provided under Section 34.

**Section 33. Prior service for new entrants employed prior to 1939-40.** Any teacher regularly employed in 1939-40 who was not employed in 1938-39, but who has been previously employed in the public elementary and secondary schools of the state, shall be defined as a new teacher and membership in the system shall be compulsory for such person, provided that such person shall receive credit for prior service when he produces satisfactory evidence that he was regularly employed as a teacher in the public schools in the state of Kentucky for full terms of three (3) of the six (6) school years preceding July 1, 1940. A teacher who is not employed for the 1939-40 school year but who has been employed in the public elementary and secondary schools prior to the 1939-40 school year shall, when again re-employed, be considered as a new teacher and membership in the system shall be compulsory, provided that such teacher may receive credit for prior service when he produces satisfactory evidence that he was regularly employed for full terms in the state of Kentucky for three (3) of the six (6) school years preceding July 1, 1940.

**Section 34. Termination of membership.** Membership in the



retirement system shall be terminated by retirement for disability or super-annuation, by death, and by withdrawal. Membership in the retirement system shall be terminated whenever a teacher who is absent from service withdraws his deposits in the fund or automatically whenever a teacher is absent from service three (3) out of six (6) consecutive years, unless the board of trustees, in accordance with its rules and regulations shall grant a longer period of absence, not in excess of six (6) years, from active service as a teacher without the loss of his status as a member. Prior-service rights shall be forfeited upon withdrawal and should the teacher re-enter the service, it shall be as a new teacher, provided that any teacher who withdraws by claiming his deposits may, before he is absent from service three (3) school years, repay to the system the sums he received from it upon his withdrawal with regular interest and by so doing re-establish his prior service rights.

In case of withdrawal from service prior to retirement, the board of trustees shall return to the teacher all of his accumulated contributions, including interest at regular interest, but the teacher shall have no claim upon any contributions made by the state with a view to his retirement.

In case of death prior to retirement the board of trustees shall pay to the estate of the deceased member, or to his assigns, all of his accumulated contributions, including regular interest, but the estate shall have no claim on any contributions made by the state with a view to the retirement of the teacher. The board of trustees shall determine the number of installments in which the return of the accumulated contributions shall be made in case of death or withdrawal, provided that in no case shall the number of installments be greater than four (4) or the expired time longer than one (1) year from the date of the establishment of the claim.

Section 35. **When claim shall be forfeited.** After a lapse of ten years from the date of termination of membership in the retirement system, if no previous request has been made for the return of the member's contribution, said member's accumulated contribution shall be forfeited and shall be converted to the guarantee fund of the retirement system.

Section 36. **Funds of the retirement system.** All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of five (5) funds: the expense fund, the teachers' savings fund, the state accumulation fund, the allowance reserve fund, and the guarantee fund.

(a) The expense fund shall consist of such funds as shall be

set aside from year to year by the board of trustees to defray the expenses of the administration of this act. During any fiscal year, with the exception of the fiscal year 1939-40, an amount which shall not be greater than 4 per cent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of this act.

(b) The teachers' savings fund shall consist of the assessments paid by members of the retirement system and interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death, as provided in this act, shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim the same, as provided in this act shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of superannuation or disability.

(c) The state accumulation fund shall consist of the state's appropriations to the retirement system, (excluding moneys assigned to the expense fund) together with interest assigned by the board of trustees from the guarantee fund. At the time of the retirement of a member by reason of superannuation or disability there shall be transferred from the state accumulation fund an amount which together with the sum transferred from the teachers' savings fund shall be sufficient to provide the member the allowance granted in Sections 43 and 44.

(d) The allowance reserve fund shall be the fund from which shall be paid all allowances, or benefits in lieu thereof, on account of which moneys have been transferred from the teacher's saving fund, the state accumulation fund, or the guarantee fund, as provided in this act.

(e) The guarantee fund shall be established to facilitate the crediting of uniform interest on the amounts of the various other funds, with the exception of the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the deposits and investments authorized by this act shall be paid into the guarantee fund.

The board of trustees is hereby authorized to accept gifts and bequests. Any funds which may come into the possession of the retirement system in this manner or which may be transferred from



the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund created by this act or any other moneys whose disposition is not otherwise provided for herein shall be credited to the guarantee fund.

The interest allowed by the board of trustees to each of the funds as provided in this act shall be paid to such funds from the guarantee fund. Any deficit occurring in any fund which would not be automatically covered shall be met by the payments from the guarantee fund to such fund.

**Section 37. Member's contribution.** Each member whose age of entrance is less than thirty (30) years shall contribute to the retirement system two per cent of his annual compensation. Each member whose age of entrance is thirty (30) and less than forty (40) shall contribute to the retirement system three per cent of his annual compensation. Each member whose age of entrance is forty (40) years and over shall contribute to the retirement system four per cent of his annual compensation. The contribution of no member shall exceed \$80 per year.

**Section 38. The State's contribution.** The state shall make annually two contributions to the fund, one a permanent amount equal to that contributed by all the teachers, and the second a temporary contribution equal to two per centum of the salaries of all present teachers, the second contribution to be continued as long as it is deemed necessary in order to cover the obligation assumed by the state for prior service credit. The board of trustees shall have power to recommend reduction of the temporary contribution as soon as its actuarial studies show such a step to be consistent with the solvency of the fund.

In case no appropriation is made by the state for such contribution with respect to any year, no contribution shall be required from the teachers for that year nor shall any retirement or disability allowances be paid during such years. In case such appropriation or payment by the state is made but is not as large as herein specified, then the contributions required from the teachers and the retirement and disability allowances to be paid out shall be reduced pro rata during such period.

**Section 39. Local board of education to collect teachers' contributions: reports.** The local board of education of each school district or the board of regents or board of trustees of each institution included in the state teachers' retirement system shall deduct from the compensation of each member for each and every payroll period subsequent to the date upon which the teacher became a

member of such percentage of his earnable compensation as is due under the rates herein prescribed and shall certify the amounts so deducted to the treasurer of the local board of education together with a list of all members contributing and the amounts contributed by each. Upon receipt of such certificate for the deductions from the salaries of the teachers the treasurer of such local board of education shall transmit the collections immediately to the secretary of the retirement system together with a list of all members contributing and the amounts contributed by each. The secretary of the retirement system, after making a record of all such receipts, shall pay them to the Treasurer of the state of Kentucky for use according to the provisions of this act.

The deductions provided herein shall be made notwithstanding the fact that the pay resulting therefrom may be less than the minimum compensation provided for by law for teachers. Every member shall be deemed to consent and agree to the deductions made and provided for herein and said deductions shall be considered as having been paid to said member.

Each local board of education of a school district or the board of regents or board of trustees of any institution included in the retirement system shall during the month of July of each year, or at such other time as the board of trustees shall approve, certify to the board of trustees the names and salaries of all teachers to whom this act applies and shall on the first day of each calendar month, or at such less frequent intervals as the board of trustees may approve, notify the board of trustees of the employment of new teachers, removals, withdrawals, and changes in salaries of teachers that shall have occurred during the month preceding or the period since the period covered by the last notification.

Each local board of education of a school district or the board of regents or board of trustees of any institution included in the retirement system shall keep such other records and shall furnish such other information and assistance to the board of trustees as it may require in the discharge of its duties.

Section 40. **Individual accounts shall be kept; other data.** The board of trustees shall provide for the maintenance of an individual account with each member showing the amount of the member's contribution and interest accumulations thereon. It shall collect and keep in convenient form such data as shall be necessary for the preparation of the required mortality and service tables and for the compilation of such other information as shall be required for the



actuarial valuation of the assets and liabilities of the various funds created by this act.

Section 41. **Total service credited at retirement.** At retirement the total service credited to a teacher shall consist of the membership service rendered by him for which credit has been allowed and, if his prior-service certificate is in full force and affect, all service certified on such prior-service certificate.

Section 42. **Conditions of retirement.** Any member who has attained the age of sixty (60) years and who has completed twenty (20) years of accredited service in the state of Kentucky, five (5) years of which must have immediately preceded retirement, may retire upon written application to the board of trustees for retirement. The filing of such application shall retire such member at the end of the fiscal year then current.

Section 42-A. Any person who has taught in the public schools of this Commonwealth for a period of thirty (30) or more consecutive years, shall be eligible to participate in all the rights and benefits of this Act, irrespective of the date of termination of their duties as such a teacher.

Section 43. **Retirement allowances.** The retirement allowance of a member whose age of retirement is sixty (60) and less than sixty-five (65) years shall be one-half of one per cent of his annual salary for each year of prior service, plus three-quarters of one per cent of his annual salary for each year of subsequent service. The retirement allowance of a member whose age of retirement is sixty-five (65) and less than seventy (70) years shall be three-quarters of one per cent of his annual salary for each year of prior service, plus one and one-eighth per cent of his annual salary for each year of subsequent service. The retirement allowance of each member whose age of retirement is seventy (70) years of age or over shall be one per cent of his annual salary for each year of prior service, plus one and one-half per cent of his annual salary for each year of subsequent service. No retirement allowance shall be greater than one-half of the member's annual salary, nor greater than \$1,000. No retirement allowance shall be less than \$100, and any allowance which is computed at less than \$100 shall be \$100.

Section 44. **Disability allowance.** Any member, after he has attained the age of fifty (50), but before he has attained the age of sixty (60) years, who has completed twenty (20) years of accredited service in the public schools of the state of Kentucky, five (5) of which immediately preceded retirement, may retire for disability and shall be granted a disability allowance to be paid from the funds

of the retirement system. The disability allowance of each such member shall be one-half of 1 per cent of his annual salary for each year of prior service, plus three-quarters of 1 per cent of his annual salary for each year of subsequent service. No disability allowance shall be greater than one-half of the member's annual salary, nor greater than \$1,000. No disability allowance shall be, or shall be reduced to, less than \$100, and any allowance which is computed to be less than \$100 shall be \$100.

**Section 45. Medical examination for disability.** Retirement for disability shall be granted only after the applicant has definitely established his claim through medical examination. The medical examination of a member for disability retirement shall be made upon the application of the member or of a person acting in his behalf, or the local board of education of the school district, or the board of regents or board of trustees of any institution in which the member is employed, stating that said member is physically or mentally incapacitated for the performance of duty and ought to be retired. If such medical examination conducted by physician or physicians selected by the board of trustees shows that said member is physically or mentally incapacitated for the performance of duty and ought to be retired, the examining physician or physicians shall so report to the board of trustees and the board of trustees shall retire said member for disability, forthwith.

A member retired for disability shall, until reaching the age of sixty (60) years, be required to undergo periodic examinations at the discretion of the board of trustees in order to determine whether the disability allowance shall be continued. When an examination shows that the disability has been removed, the allowance shall cease. If the beneficiary of a disability allowance is able to engage in a gainful occupation other than teaching, the benefit shall be reduced, until the beneficiary reaches the age of sixty (60) years, to an amount which with the earned income shall not exceed the average salary for the five (5) years preceding retirement, provided that in no case shall the disability allowance be reduced to less than \$100.

**Section 46. Payment of annuities.** The first payment to an annuitant shall be made at the payment date at the end of one full payment period after his retirement and shall consist of one regular quarterly payment.

**Section 47. Refund upon death of beneficiary.** In case of death of a member who has retired by reason of superannuation or disability, any portion of the member's contributions including regular interest to the date of retirement, that has not been paid as an allow-



ance or benefit in lieu thereof, shall be paid to the member's estate in such manner as the board of trustees may elect.

Section 48. **Benefit options.** Until the first payment of a retirement allowance is made, the beneficiary may elect to receive retirement allowances in the form of a life annuity, as provided in Section 43, or equivalent benefits under such options as the board of trustees may approve. No such option shall provide for a benefit whose actuarial value at the age of retirement is greater than that provided in Section 43. No payment during any year on account of one beneficiary shall be greater than \$1,000 under such options. This section shall not apply to disability allowances.

Section 49. **Provisions for existing systems.** A local teachers' retirement system may be merged with the state retirement system whenever a majority of all members participating in a local retirement system shall apply for membership in the state teachers' retirement system created by this act by a petition duly signed and verified, approved by the local board of education, and filed with the board of trustees of the state retirement system. All the members included in the membership of such local teacher retirement system shall become members of the state retirement system created by this act at such time, within three (3) months after the filing of such petition and after compliance with the other provisions of this act relative to the dissolution and discontinuance of such local retirement systems, as the board of trustees shall designate.

If a local retirement system votes to merge with the state retirement system as provided in this act, the local system shall be discontinued; the payment of all benefits to members on the retired roll at the time of discontinuance shall become the obligation of the school district in which the local system was operated prior to its discontinuance; and all of the members of the dissolved retirement system may become members of the state system on the same basis as other present teachers in the state and shall receive the state's contribution for prior service the same as other present teachers of the state system.

Prior to voting upon merging with the state retirement system, or within thirty (30) days after a local retirement system votes to merge with the state retirement system, the board of directors of the local retirement system shall employ an expert approved by the local board of education in which the local system is operated to evaluate all of the funds of the local retirement system and compute the present value of liabilities on account of annuitants on the roll of local retirement system at the time the local system is discon-

tinued, and the expenses of such evaluation shall be borne by the local retirement system. The expert employed shall present a complete report of his findings to the local board of education and to the local retirement system.

After the report of the evaluation is filed with the local board of education and the local retirement system and after a majority of the members of the local retirement system shall have voted to merge with the state retirement system, the secretary of the local retirement system shall certify to the board of trustees of the local retirement system the names of all members of the local retirement system and the amount of refundable deposits due each member in accordance with the laws and regulations of the local retirement system. Upon approval by the board of trustees of the local retirement system of the names and amounts listed in the secretary's report it shall be transmitted to the secretary of the local board of education.

All funds of the local retirement system shall then be transferred to the local board of education, which within a period of twelve months after the funds are transferred to the local board of education, shall pay to members of the local retirement system the refundable deposits certified to the secretary of the local board of education by the board of trustees of the local retirement system. If the remaining sum is less than the present value of liabilities on account of annuitants on the rolls of the local system at the time the local system is discontinued, the local board of education or the taxing authority which levies school taxes for the local board of education upon recommendation of said board of education shall annually levy a tax rate sufficient to discharge in full the obligation to annuitants, provided that in cities of the first class such levy shall not exceed (1) one cent on each \$100.00 of assessed value of property made by such taxing authority. The levy of such tax shall be mandatory. Payments to annuitants in cities of the first class shall not exceed the amount being received by them at the time such local retirement system is discontinued. Whatever sum may remain after the death of all annuitants shall be used by the local board of education for general school purposes.

In the case of recently inaugurated local retirement systems where there are no annuitants at the time of the merger of the local and state systems, all refundable deposits shall be returned to the individual members by the local retirement system, any proper expense items paid, and the sum remaining shall be paid to the local board of education to be used for general public school purposes.



If the merger of the local with the state retirement system takes place more than a year after the state system becomes operative, the board of directors of the local retirement system, prior to transferring their funds to the local board of education, shall turn over to the state retirement fund such portion of the local fund as will equal the accumulated contributions of the local system from July 1, 1940, to the date of the merger, and the necessary amount shall be deducted from the refundable deposits as certified by the local retirement board. Should the refundable deposit of any member be less than the accumulated contributions since July 1, 1940, this member shall be assessed the difference which shall be collected by the local retirement system and turned over to the state retirement system at the time of the merger of the two systems.

The local board of education shall continue to invest the funds transferred to it for the benefit of the existing annuitants as long as such annuitants shall live. Such investment shall be governed by the present law dealing with the local retirement systems, except that the local board of education is substituted for the board of trustees of the local retirement system. The local board of education shall keep all funds transferred to it by the local retirement system and all income from the investment of such funds in a separate fund to be known as the Annuity Fund. The local board of education is authorized to pay from the Annuity Fund any reasonable expenses necessary for the fund's administration and general management. The local board of education shall safeguard the Annuity Fund by requiring such additional surety bond of the treasurer as seems necessary to them, by providing for an annual audit by a reputable auditing firm, by spreading on the minutes of the board of education at least annually, a report of investments, assets and liabilities, and the names, addresses, and annuities of annuitants, and by levying such a tax rate or making such an appropriation to the Annuity Fund from local school revenues as will guarantee the full and complete discharge of all obligations to annuitants.

**Section 50. Protection against fraud.** Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor, and shall be punishable therefor under the laws of the state of Kentucky. Should any change or error in record result in any employee or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, then, on discovery of any such error, the

board of trustees shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

Section 51. **Exemption from taxation and attachment.** The right of a teacher to a retirement allowance, to the return of contributions, any benefit or right accrued or accruing to any person under the provisions of this article, and the moneys in the various funds created hereunder, are hereby exempt from any state or municipal tax, and shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this article specifically provided.

Section 52. Provided that if any section of this Act shall be held unconstitutional or invalid, it shall not affect any of the remaining parts or sections of this Act; that it is the intention of the General Assembly that the remaining parts and sections of this Act shall be held in full force and effect regardless of such invalidity or unconstitutionality.

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### **Requiring Boards of Education to Provide High School Services for All Pupils.**

AN ACT to provide approved high school service for all pupils.

That it shall be the duty of the board of education of each county to provide approved high school service within the county for all children of high school grade residing in the county district, either by maintaining the school or by contract with an independent district within the county, and the duty of each independent district board of education to provide such service within its district, or by contract with a city or other independent district within the county, for all children of high school grade residing within such district; provided that if the number of such pupils of either race is not sufficient in any county or independent district to maintain a high school, the board shall provide it by transporting them daily to an approved high school in another county or district, or in lieu of transportation shall provide for their board and room within reasonable walking distance of such school if it is found more feasible or more economical to do so, said maintenance in no case to cost more than one hundred (\$100) dollars per year for any pupil.



**Providing for the Establishment of a State Vocational School at Paintsville, Kentucky.**

AN ACT providing for the purchase of property in Paintsville, Kentucky, known as "The Mayo College property", and for the establishment thereon of a State Vocational School; providing for the maintenance and operation of said school, and making appropriations therefor.

Section 1. The Kentucky Real Estate Board is hereby authorized and empowered, in accordance with the Governmental Reorganization Act, to purchase certain properties in Paintsville, Kentucky, known as the "Mayo College property", for the purpose of establishing thereon a State Vocational School, known as the Mayo State Vocational School.

Section 2. There is hereby recognized as established and maintained the Mayo State Vocational School for white persons, to be located at Paintsville, Kentucky, and to begin operations on and after the 1st day of July, 1938. The management and control of the said Mayo State Vocational School shall be vested in the State Board of Education, which is hereby vested with all the duties, rights, powers, purposes and responsibilities of the institution, and shall be in possession and control, in accordance with the Governmental Reorganization Act of 1936, of all properties, moneys, funds, appropriations, lands and other properties, real or personal, and all records, equipment and supplies that now, or may be hereafter provided for the benefit of said institution.

Section 3. The said Mayo State Vocational School is hereby authorized to conduct, maintain and operate, under the control and supervision of the State Board of Education, a State Vocational School, the purpose of which shall be to make available facilities for vocational training for white persons, to be carried on in accordance with State plans for vocational education. The curriculum shall be established and approved by the State Board of Education.

Section 4. For the purpose of operating and maintaining the boarding and rooming departments, student activities, and other necessary operation and maintenance expenses of the Mayo State Vocational School, there are hereby appropriated for the fiscal year of 1938-1939, and the fiscal year 1939-1940 all fees and other operating receipts which shall be covered into the State Treasury promptly after the close of each month, and placed to the credit of the revolving fund of the said institution. Withdrawals for the use and benefit of the institution may be made from the said revolving fund maintained in the State Treasury when and as needed upon requisition

of the governing authority of the institution, properly approved by the Commissioner of Finance

Section 5. There is hereby appropriated out of the General Expenditure Fund the sum of not exceeding twenty-five thousand dollars (\$25,000.) for the purpose of purchasing the property aforesaid for the location of the said Mayo State Vocational School. For the payment of salaries and other expenses incident to the maintenance and operation of the said Mayo State Vocational School, excepting the purchase of real estate authorized by this Act, there is hereby appropriated out of General Expenditure Fund the sum of twenty-five thousand dollars (\$25,000.) for the fiscal year 1938-1939. For the payment of salaries and other expenses incident to the maintenance and operation of the said Mayo State Vocational School, there is hereby appropriated out of the General Expenditure Fund the sum of nineteen thousand dollars (\$19,000.) for the fiscal year 1939-1940.

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**Changing Name of Kentucky State Industrial College for Negroes  
and Establishing at Paducah West Kentucky  
Vocational Training School.**

AN ACT to amend and re-enact Sections 4527-59 to 4527-81, inclusive, of the Kentucky Statutes, Baldwin's 1936 Revision, relating to higher education for negroes; changing the name of the Kentucky State Industrial College to "Kentucky State College for Negroes"; discontinuing the West Kentucky Industrial College; establishing the West Kentucky Vocational Training School in place thereof, providing for its maintenance, operation and control, and making an appropriation therefor.

Section 1. There is hereby recognized as established and maintained Kentucky State College for Negroes, located at Frankfort. The said college for colored persons shall be maintained by the Commonwealth with such endowments, incomes, buildings, and equipment as shall enable them to do work such as is done in other institutions of corresponding rank and kind.

Section 2. It shall be the purpose of the Kentucky State College for Negroes to train teachers for schools for colored children, and to give such industrial and general college training to young men and women of the negro race as the State Board of Education deems necessary or advisable.

Section 3. There shall be maintained in Kentucky State College for Negroes a department for the education of colored students in agriculture and the mechanic arts, and for said purpose said board



shall be entitled to receive an equitable division of the moneys arising from the sale of public lands and appropriated to the Commonwealth of Kentucky by an Act of Congress approved August 30, 1890, entitled "An Act to apply a portion of the proceeds of public lands to the more complete endowment and support of the college for the benefit of agriculture and the mechanic arts established under the provisions of the Act of Congress approved July 2, 1862."

Section 4. The management and control of Kentucky State College for Negroes shall be vested in the State Board of Education. Said Board of Education shall succeed to and is hereby invested with all the duties, rights, powers, purposes, responsibilities and jurisdiction of the present Board of Trustees of said College, not inconsistent with this Act, and shall be in possession and control of all records, books, papers, offices, equipment, supplies, moneys, funds, appropriations, lands and other property, real or personal, now or hereafter held for the benefit of said institution.

Section 5. There is hereby recognized as established and maintained the West Kentucky Vocational Training School for Negroes, located at Paducah, which shall succeed on the 1st day of July, 1938, to all the buildings, properties and funds now owned and used by the West Kentucky Industrial College, except as hereinafter provided. The management and control of West Kentucky Vocational Training School for Negroes shall be vested in the State Board of Education, which is hereby invested with all the duties, rights, powers, purposes and responsibilities of the institution, and shall be in possession and control of all records, books, papers, offices, equipment, supplies, moneys, funds, appropriations, lands and other property, real or personal, now or hereafter held for the benefit of the said institution.

Section 6. All records, papers, transcripts of credit, files, reports and books of every kind, except library books, of West Kentucky Industrial College are hereby transferred to Kentucky State College for Negroes.

Section 7. The West Kentucky Vocational Training School for Negroes is hereby authorized to conduct, maintain and operate under the control and supervision of the State Board of Education a State Vocational Training School, the purpose of which shall be to make available facilities for vocational training for colored children to be carried on in accordance with the State plans for vocational education. The curriculum shall be established by the State Board of Education and shall be of the character and rank given by approved schools of this type.

Section 8. The State Board of Education acting as a board of control for Kentucky State College for Negroes and West Kentucky Vocational Training School for Negroes shall be a body corporate, shall have perpetual succession, with power to contract and be contracted with, to sue and to be sued, to plead and to be impleaded, to receive by any legal mode of conveyance property of any description and to have and to hold and to enjoy the same, also to make and use a corporate seal with power to alter the same; to adopt by-laws, rules and regulations for the government of said schools, their officers, agents and employees; provided such by-laws shall not conflict with the Constitution of the United States and with the Constitution of Kentucky and the laws of Kentucky.

Section 9. Said board of education shall have power to purchase, sell, and hold real and personal property in the name of the Commonwealth of Kentucky for the use and benefit of each of said schools, and to condemn real estate in the manner provided by law for condemnation of land for railroad purposes. It shall have power to build and construct improvements and to do all things deemed by it necessary in carrying out the purposes for which said schools are maintained. Any revenue accruing by reason of the sale or conveyance of any real estate or building now owned by it, shall be reinvested in other real estate and buildings for use of said school.

Section 10. It shall be illegal for any officer, board member or any other person in any way connected with either of the schools for colored persons to contract any obligation for or on behalf of either institution, where there is no money or insufficient money, in the treasury or has been no money appropriated for the purpose for which said contract or obligation was made, and any of said persons who fail to comply with this law shall be fined in each case not less than two hundred and fifty dollars (\$250.) nor more than two thousand dollars (\$2,000.) or confined not less than ten days in jail nor more than six months, or both so fined and imprisoned.

Section 11. The board shall appoint a president for Kentucky State College for Negroes and West Kentucky Vocational Training School for Negroes, and determine his salary and the tenure of office, the term of which is not to exceed four years. The president may be removed for cause.

Section 12. The president shall be the executive agent of the State Board of Education in its administration of the affairs of the institutions and shall have general supervision, subject to the control of the board, of all educational and business affairs of the institutions and of all disciplinary problems which may arise.



Section 13. The State Board of Education shall, upon recommendation of the president, appoint and remove all officers, teachers, and such other employees as are needed for the successful operation of the said schools and shall determine their salaries, duties, and official relations; provided that all executive officers, teachers, or other employees of the board of trustees in office or under contract at the time this act goes into effect shall serve out the terms for which elected, unless removed for cause.

Section 14. No president, officer, or teacher shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct, nor shall such president, officer, or teacher be removed until after ten days' notice in writing stating the nature of the charges preferred; and such person shall have an opportunity to make defense before the board by counsel or otherwise, and shall be allowed to introduce testimony which shall be heard and determined by the board.

Section 15. The State Board of Education shall adopt such rules and regulations for the government of said schools and for the guidance of the employees and students of each of the said schools for colored persons as it may deem proper. It may require of the president, the teachers, or other officers such reports as it may deem necessary; provided, that all existing rules and regulations made by the preceding boards shall remain in force until repealed by order of the State Board of Education.

Section 16. The State Board of Education shall have the power to invest the faculty or a committee of the faculty with power to suspend or expel any pupil for disobedience of the rules and regulations of the schools, for insubordination, or immoral conduct. In every case of suspension or expulsion of a student by the faculty or committee of the faculty, the person so suspended or expelled shall be allowed an appeal from the decision of the faculty to the State Board of Education, but the decision of the State Board of Education shall be final.

Section 17. The State Board of Education shall have power to determine from time to time the number of departments of study of each school, and shall prescribe the curricula for each of the said schools for colored persons. It shall have the power to issue certificates or diplomas of graduation to students completing such curricula as may be provided for.

Section 18. The State Board of Education shall have power to maintain in connection with the Kentucky State College for Negroes a model and practice school under the supervision of trained

teachers for the purpose of giving observation and practice work to the student teachers.

Section 19. Tuition in said schools for colored students shall be free to all colored residents of Kentucky. The board shall fix the rate of tuition and the conditions on which pupils who are not residents of Kentucky may be admitted. The board shall fix such incidental fees as it deems necessary to meet such incidental expenses as may be incurred.

Section 20. The secretary of the State Board of Education shall serve as secretary of the board in its administration of the two schools for colored persons. It shall be the duty of the secretary to keep and prepare all records, books, and papers belonging to the board in its administration of said schools. He shall keep a journal of the proceedings of the board, in which if requested by any member of the board of education, the "ayes" and the "nays" of all questions shall be entered. He shall prepare, under the direction of the board, all reports and estimates.

Section 21. The president of Kentucky State College for Negroes and the president of West Kentucky Vocational Training School for Negroes shall make to the State Board of Education written reports during the month of August of each year, which shall contain a full account of all receipts of moneys from appropriations, tuitions, fees, and other sources, and the disbursement thereof, and for what purpose, and the condition of said school.

Section 22. The State Treasurer shall be the treasurer of the State Board of Education in its administration of Kentucky State College for Negroes and West Kentucky Vocational Training School for Negroes

Section 23. The State Board of Education shall meet at least once each year at the school plant of each of the schools herewith placed under its management and control for the purpose of inspecting the plant and observing the work and the needs of the school.

Section 24. All appropriations made by the General Assembly for the support of the said schools for colored persons or for the benefit thereof, and all grants, bequests, or donations by any individual or corporation for specified use shall be applied to such use or uses and no other.

Section 25. In respects other than those specifically mentioned herein, the State Board of Education, in its administration of the said schools for colored persons, shall be guided by existing legislation respecting its organization, duties, powers and activities.

Section 26. The provisions of this act are severable, and if any



of its provisions shall be held unconstitutional the decisions of the courts shall not affect or impair any of the remaining provisions of this act. It is hereby declared as a legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein, and any school service prohibited or impaired by such provisions shall be administered by the laws in effect at the time this act became operative.

Section 27. For the payment of salaries and other expenses incident to the maintenance and operation of the West Kentucky Vocational Training School for Negroes there is hereby appropriated to said school, out of the general expenditure fund, the sum of forty thousand dollars (\$40,000.) for the fiscal year 1938-39.

For the payment of salaries and other expenses incident to the maintenance and operation of the West Kentucky Vocational Training School for Negroes there is hereby appropriated to said school, out of the general expenditure fund, the sum of thirty-nine thousand dollars (\$39,000.) for the fiscal year 1939-40.

Section 27-a. For the purpose of operating and maintaining the boarding and rooming departments, athletics and student activities, for instructional equipment and supplies, and other necessary operation and maintenance expenses of the West Kentucky Vocational Training School for Negroes there are hereby appropriated, for the fiscal year 1938-1939 all fees and other operating receipts which shall be covered into the State Treasury promptly after the close of each month and placed to the credit of the revolving fund of the said institution. Withdrawals for the use and benefit of the institution may be made from the said revolving fund, maintained in the State Treasury, when and as needed, upon requisition from the governing authority of the institution, properly approved by the Commissioner of Finance. For the purpose of operating and maintaining the boarding and rooming departments, athletics and student activities, for instructional equipment and supplies, and other necessary operation and maintenance expenses of the West Kentucky Vocational Training School for Negroes there are hereby appropriated, for the fiscal year 1939-1940 all fees and other operating receipts which shall be covered into the State Treasury promptly after the close of each month and placed to the credit of the revolving fund of the said institution. Withdrawals for the use and benefit of the institution may be made from the said revolving fund, maintained in the State Treasury, when and as needed, upon requisition from the governing authority of the institution, properly approved by the Commissioner of Finance.

**Providing for Extending Boundary of Independent School Districts.**

NOTE: It does not appear that the information contained in this Bill was within the call of the Governor. An opinion from the office of the Attorney General so states.

AN ACT authorizing independent school districts to annex county subdistricts or parts thereof.

Any independent school district may annex and unite as a part of the independent school district any county subdistrict or subdistricts, or parts thereof, lying adjacent to the independent school district, subject to the following provisions.

The board of education of the independent school district and the county board of education shall designate the territory proposed to be annexed, and submit the question of annexing the territory to the independent school district to a vote of the people residing in the territory proposed to be annexed, and if said proposal shall be adopted by a vote of the majority of the people residing therein, said territory shall become a part of the independent school district.

Provided further that if the board of education of the independent school district or the board of education of the county shall fail or refuse to designate said boundary, or call said election, then if twenty-five (25%) per cent of the voters residing in said territory proposed to be annexed shall petition the board of education to call said election, same shall be called within sixty days from the filing of said petition, and if at said election there is a majority vote in favor of said annexation, said territory shall become a part of the independent school district.

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## COURT DECISIONS ON THE SCHOOL LAWS PASSED IN 1934 AND SINCE.

*Wilson, et al. v. Alsip, et al., 256 Ky. 466.*

Subdistrict trustee has authority to nominate teachers in schools where only elementary grades are taught through the eighth grade. County superintendent nominates in all other schools.

*Hager, Mayor, et al. v. Cisco, 256 Ky. 708.*

Acts of 1934, Chapter 65, Article 5, Section 42, provides that all bonds voted by the various types of school districts and subdistricts prior to the passage of this act shall be retired and the interest paid thereon in accordance with the laws under which they were voted.

School bond issue authorized and voted by the city (of second class) in 1929, did not then become indebtedness or obligation of city, nor did it become such until and to the extent that parts of such authorized bond issue were later issued and sold.

*Reynolds, et al. v. Spurlock, 257 Ky. 582.*

Qualifications of teacher determined when applicant begins to teach. Withdrawal of recommendation not valid because trustee was not before the board and no record was made of his attempted withdrawal.

*Montgomery County Board of Education, et al. v. Messer, 257 Ky. 836.*

(1) Board of education may establish qualifications higher than the minimum required by the statutes. (2) The board may require transcript of college work filed before application of the teacher is placed before the board. (3) Board may require sixty-four semester hours' college training of teachers under its order except those who taught in the county the preceding year.

*Bullock v. Brown, 258 Ky. 522.*

Law requires written contract with a teacher. Petition fails to state that employment was evidenced by written contract. It, therefore, fails to state a course of action.

*Thompson v. Pendleton County Board of Education, et al., 258 Ky. 843.*

Findings of the county board of education in proceeding wherein principal-teacher and principal-teachers were tried on charge were conclusive on court unless it is clearly shown that the board abused its discretion.

*Huff, et al. v. Black, et al., 259 Ky. 550.*

Person whose name was written on the ballot entitled to contest in election even though not on a petition. Signatures on first petition not invalidated because later signed another petition.

*Board of Trustees of Fairview Graded Common School District, et al. v. Renfro, 259 Ky. 644.*

Principal of a school a state employee and not disqualified to be employed by trustees even though he was a member of the General Assembly.

*Emmons v. Board of Education of Lewis County, 260 Ky. 17.*

County board of education has authority to deed property to holding corporation with understanding it will be deeded back when bonds are paid.

*Superior Coal and Builders Supply Company v. Board of Education of Dayton, Ky., 260 Ky. 84.*

Landowner could not recover from the board of education for damages alleged to have been caused by heavy rains in the absence of allegation of negligence of the school board.

*County Board of Education of Bath County, Ky., et al. v. Goodpaster, 260 Ky. 198.*

County board of education has authority to discontinue all subdistricts provided it can show necessity therefor and if the results would be reasonably useful, convenient, and proper. The board has discretion to exercise this authority. The constitutionality of the new school code is determined by this case. The constitutionality of the new school code was referred to by the court in the case of County Board of Education of Montgomery County, et al., on petition ex Parte, 260 Ky. 246.

*Taylor v. Bell County Board of Education, 260 Ky. 253.*

Where two teachers were to be chosen, county board held unauthorized to consider the teacher's nomination signed by trustee and filed two months after filing of same trustee's nominations of two other teachers. County board of education must consider employment of teachers nominated.

*Waddle, et al. v. Hughes, Superintendent of Ferguson Independent Graded School District No. 76, et al., 260 Ky. 269.*

Letter carrier ineligible to hold office of member of the board of education because of violation of Section 237 of the state constitution. This decision quotes from the case in United States v. McCrory (C. C. A.), 91 F. 295, 296 which holds: "Letter carriers are appointed by the postmaster general under authority of the acts of congress, practically during good behavior. They are sworn and give bond for the faithful performance of their duties. They are paid from moneys appropriated for the purpose by congress, and their salaries are fixed by law. They have regularly prescribed services to perform, and their duties are continuing and permanent, not occasional or temporary."

*Davis v. Board of Education of City of Newport, et al., 260 Ky. 294.*

Thirty-year lease of school building to board on condition of paying \$15,000 a year until all rentals paid on condition that building would be conveyed to board held unconstitutional. Lease of building to board by city for annual rental which does not exceed budget for year constitutional.

*Morgan County Board of Education v. Elliott, 260 Ky. 672.*

Only subdistrict trustee elected in 1934 has legal authority to recommend teachers.

*Mollette v. Board of Education of Van Lear Graded District, 260 Ky. 737.*

Upholding a bond election and interpreting and clarifying in detail the 1934 statutes in connection with holding bond elections in independent districts.

*Board of Education of Calloway County, et al. v. Talbott, Auditor of Public Accounts, 261 Ky. 66.*

Held unconstitutional to pay equalization money to teachers because constitution required money for payment of teachers to be distributed on census of pupils.

*Richmond, et al. v. Lay, 261 Ky. 138.*

Statute giving teacher life certificate on twenty years' experience prior to effective date of act of Special Session of Legislature held invalid because was not within the scope of the Governor's call.

*Swinford v. Chasteen, et al., 261 Ky. 249.*

Subdistrict trustee may recommend teachers between February 1 and April 2. After that date county superintendent has sole recommending authority.



*Lee v. Board of Education of Bell County, 261 Ky. 379.*

Debt which arose from unexpected decrease in value of property of county school district held a valid obligation as regards validity of bonds authorized to fund such obligations.

*Board of Education of Pulaski County v. Nelson, et al., 261 Ky. 466.*

Facts were not presented which proved fraud was practiced in creating indebtedness.

*Board of Education of Wurtland Independent School District, et al. v. Stevens, et al., 261 Ky. 475.*

Office of member missing three consecutive meetings not vacant unless action of board so declares. Boards of education had authority to merge districts.

*Board of Education of Paducah v. City of Paducah, et al., 261 Ky. 549.*

City held not liable for delinquent taxes, interests, and penalties due on assessment to the board of education. City is liable for taxes, interests, and penalties collected.

*Fayette County Board of Education, et al. v. Mollie H. Bryant, et al., 262 Ky. 61.*

This case involves the right of the board of education to three tracts of land which were deeded for school purposes with a reversionary clause which provided that when the property ceased to be used for school purposes that it should revert to the original owner or the original tract or to the owner of the tract from which one of the plots was taken. The deed in this case conveyed this reversionary right to the purchaser of the tract in which it was reserved. The courts held in each case that the county board of education had no control over the property when it ceased to be used for school purposes.

*Wirth, et al. v. Board of Education for Jefferson County, et al., 262 Ky. 291.*

A child in an orphan's home is a resident of the district wherein he was placed and was entitled to attend school while in boarding home without paying tuition.

*Ficke, et al. v. Board of Trustees of Erlanger Consolidated Graded School District, 262 Ky. 312.*

School districts have liens on personal property. If Governor neither approves nor disapproves act with emergency clause it becomes effective when returned to Secretary of State's Office.

Schools and School Districts.—Emergency statute declaring inadequacy of existing remedies and intention to provide additional remedies for collecting school taxes held intended to apply retroactively.

*Byrd, et al. v. Begley, 262 Ky. 422.*

Action of superintendent in suspending pupil for wilful disobedience is proper exercise of authority.

*J. D. Van Hooser and Co., et al. v. University of Kentucky, 262 Ky. 581.*

Statutes authorizing state educational institutions to construct and finance buildings held valid, etc.

*United States Fidelity and Guaranty Co. v. Tafel Electric Co., 262 Ky. 792.*

Agreement to lengthen or abridge period of limitation prescribed by statutes void as against public policy.

*Pendleton County Board of Education v. Simpson, 262 Ky. 844.*

Judgment erroneously rendered for tuition held not subject to collateral attack by board.

*Duke White, Mayor, et al. v. Board of Education of the City of Maysville, 263 Ky. 1.*

Held that the city council should make the levy requested by the board

of education because it appeared that the board did nothing which would appear to be corrupt or in bad faith in arriving at the amount of money which should be included in its budget.

*Fayette County Board of Education, et al. v. Bryan, et al., 263 Ky. 61.*

Schools and School Districts. Conveyance of land to school district trustees to be held so long as it should be used for school created determinable or qualified fee, subject to termination on cessation of that use, notwithstanding fact that school facilities were being provided on other lands.

*Bell County Board of Education, et al. v. Wilson, et al., 263 Ky. 556.*

County board of education may exercise reasonable though not arbitrary discretion in consolidating districts. This case held abuse of discretion.

*J. W. Smith v. Board of Education of Ludlow, et al., 264 Ky. 150.*

Held that facts in the case did not warrant conclusion that the charges or evidence was sufficient to remove appellant superintendent from his office. In quoting from 22 R. C. L., page 571, section 822, the court held that the word "cause" in the statutes authorizing the removal of the officers for cause means legal cause and not any cause which the board authorized to make such removal may deem sufficient. Where an officer holds for a fixed term and is removable for cause only, it is essential to a valid removal that the charges be legally sufficient. *Henderson v. Layne, 202 Ky. 610.*

*Board of Education of Woodford County, et al. v. Board of Education of Midway Independent Graded Common School District, et al., 264 Ky. 245.*

County board of education must provide educational facilities for colored people resident within independent districts cities of fifth class. Amended law now does not so require.

*Brown v. Turman, 264 Ky. 407.*

All members must have legal notice of meeting of board of education. Electing superintendent under conditions cited in this case held illegal.

*Barton, et al. v. Brafford, et al., 264 Ky. 480.*

By authority of Section 4399-30 empowering "other members" to fill vacancies one member may fill a vacancy when four others have been removed, etc.

*Payne, et al. v. Brown, 265 Ky. 19.*

Citizens and taxpayers cannot intervene in action by teacher to recover for services rendered unless taxpayer alleges facts showing bad faith or collusion on the part of the board.

*Hundley v. Board of Education of Mt. Eden Graded Common School District, 265 Ky. 33.*

Board of Education may find a legal indebtedness instead of making direct levy for purposes of satisfying a judgment.

*Hunter, et al. v. Board of Education of Floyd County, 265 Ky. 162.*

Court not authorized to substitute its judgment for that of board and the variety of evidence and facts it considered. Information furnished does not show that the board of education acted arbitrarily or without creditable, competent and relevant evidence. Held that board acted within its discretion in removing him from office.

*Board of Education of Louisville v. County Board of Education for Jefferson County, et al., 265 Ky. 447.*

When inmate of children's home is placed in a home the child becomes a resident of that district wherein it is placed and such district has right to include child in census and receive school per capita from the Commonwealth.



*Hall v. Boyd County Board of Education, et al.*, 265 Ky. 500.

Member of a board of education may refuse to vote for a teacher related to another member as prohibited by law even though recommended by superintendent and otherwise qualified or else statute requiring unanimous vote of the remainder of the board would be made ineffective.

*Phillips, Ex-Sheriff, v. Warren County Board of Education*, 265 Ky. 580.

Sheriff entitled to only one per cent for collecting taxes.

*Lawson v. Board of Education of Greenup County School District*, 265 Ky. 630.

Board of education may refund valid debt.

*Nelson v. Williamsburg Independent Graded School District, et. al.*, 265 Ky. 792.

Where bonds have been issued in excess of legal limit of indebtedness additional bonds cannot be issued to take place of those which have been called for payment.

*Commonwealth ex rel. Vincent, Atty. Gen., v. Withers*, 266 Ky. 29.

If interest in property of a board member is such that there is a mere possibility for gain it does not disqualify. If interest is so remote that it cannot reasonably be calculated to affect judgment law is not violated.

*Bowling, et al. v. Combs, et al.*, 266 Ky. 56.

County superintendent is largely a ministerial officer and as such it is his duty to accept and submit to the county board of education all applications for teaching positions if made within the prescribed time.

*Spurlock, et al. v. Spradlin, et al.*, 266 Ky. 164.

Failure to attend three successive meetings constitutes no vacancy until board takes action on such failure.

*Harris v. Holt, et al.*, 266 Ky. 576.

Taxing district may issue bonds for indebtedness. Legality of debt must be adjudged by court of competent jurisdiction before bonds may be issued.

*Whitley County Board of Education v. Rose*, 267 Ky. 283.

Salary and expense of superintendent of schools could not be reduced during term of office under Kentucky Statutes 1930. Successor could serve only remainder of the term.

*Board of Education Campton Graded and High School v. Board of Education of Wolfe County, et al.*, 267 Ky. 401.

Statute requiring contracts and stipulating what should be in contract applies where joint high school operated.

*Webster County Board of Education v. Hockett, et al.*, 267 Ky. 498.

Where independent districts were merged with county district prior to repeal of statutes authorizing county board to assume liabilities of districts of such merger, county board authorized to issue refunding bonds and not required to make levy on property of these districts to pay off such indebtedness.

*Franklin County, et al. v. Franklin County Board of Education*, 267 Ky. 554.

Board of Education rather than Fiscal Court held to have power and duty to determine site for high school building.

*Hurd v. Laurel County Board of Education, et al.*, 267 Ky. 730.

This case involves proper manner of making an appeal, etc. Trustee elected in 1934 can nominate teacher.

*Laurel County Board of Education, et al. v. Bowling*, 267 Ky. 763.

When boundary of a subdistrict includes the owner of farm, it also includes farm and those living on it, in absence of words of exclusion.

*Meade v. Board of Education of Johnson County, et al.*, 268 Ky. 71.

Board of education has legal authority to issue bonds to refund validly created indebtedness.

*Simpson County Board of Education, et al. v. Strickler*, 268 Ky. 72.

Subdistrict was not abolished. It was merely enlarged and the subdistrict trustee had authority to recommend the teachers.

*Polley v. Fortenberry, et al.*, 268 Ky. 369.

Constitution nor statutes prohibit holding two state offices or employment at same time. Office of member of county board of education is not incompatible with maintenance supervisor of roads.

*Commonwealth, for Use and Benefit of Board of Education of Louisville, et al. v. Schultz's Unknown Heirs, et al.*, 268 Ky. 806.

When property not disposed of by will of person dying without heirs escheats to Commonwealth and to board of education of district of his residence.

*Marcum v. Borders, et al.*, 269 Ky. 59.

Valid indebtedness may be funded if bonded indebtedness does not exceed anticipated revenue for the year. Sets up conditions for funding debt by a board of education.

*Board of Trustees of Bromley Independent School District No. 38, et al. v. State Board of Education, et al.*, 269 Ky. 253.

State Board did not abuse discretion in placing into county district independent district of Bromley. State Board may grant permit to operate as independent district for period from one to four years.

*Fiscal Court of Jackson County, et al. v. Board of Education of Jackson County*, 269 Ky. 258.

Board of Education authorized to convey school site to fiscal court for purpose of issuing bonds to finance construction of school building.

*Arrowood v. Board of Education of Paintsville Graded School District, et al.*, 269 Ky. 464.

Court cannot determine the validity of floating indebtedness.

*Pollitt v. Lewis, et al.*, 269 Ky. 680.

State Constitution does not permit statute authorizing boards of education to establish junior colleges and require council to levy tax to pay for its operation.

*Bales v. Holt, County School Superintendent, et al.*, 270 Ky. 272.

County board of education should assume indebtedness of the independent district which becomes part of county district.

*Hoskins, et al. v. Helton, et al.*, 270 Ky. 355.

Sheriff and his sureties are liable to the county board of education for taxes collected and not accounted for and the sum paid him for delivery of ballot boxes for which the law makes no allowance.

*Scott County Board of Education v. McMillen*, 270 Ky. 483.

The plan of the county board of education providing for conveyance to holding corporation properties which were to be jointly mortgaged to secure payment of bonds, was not invalid because all properties were jointly subject to lien for payment of bonds or because provision for refunding of any taxes paid by bondholders if annual payment was within board's unencumbered annual income.



*Smith, et al. v. Withers, et al.*, 270 Ky. 568.

County board of education may discontinue subdistricts and court will not interfere with action except in case of abuse of authority.

*Runyon v. Simpson, Mayor, et al.*, 270 Ky. 646.

The lapse of eight years between election authorizing bond sale and proposed issue of same did invalidate them if indebtedness is legal.

*Baisden v. Floyd County Board of Education, et al.*, 270 Ky. 839.

Where member of county board was absent from one meeting and was absent from the next two meetings, although he made trips to town for purposes of attending meetings because of board's failure to inform him of change in time of holding meetings board's removal of such member was arbitrary and improper.

*Hancock v. Henderson County Board of Education*, 271 Ky. 473.

County board of education given authority to refund indebtedness.

*Piggott v. Kasey, et al.*, 271 Ky. 651.

Where bonds for school purposes were issued by city and later school merged with county district the bonds were valid and county board assumed all obligation of the independent district board. Bonds may be sold to private persons.

*Arrowood v. Board of Education of Paintsville Graded School District*, 271 Ky. 812.

The board of education is limited in its annual spending to its budgeted revenue. The board has the burden of establishing the validity of indebtedness. A proposed issue of school bonds to fund an alleged indebtedness will be approved so far as such consisted of a final judgment in a bona fide suit against the school board.

*Hancock v. Henderson County Board of Education*, 272 Ky. 432.

Political unit desiring to issue funding bonds should plead and prove sources of revenue available to unit so as to enable the court to determine for itself the aggregate amount of revenue that might be anticipated for each year.

*Knuckles v. Board of Education of Bell County*, 272 Ky. 436.

Position of superintendent or assistant superintendent is incompatible with that of teacher in the public schools.

*City of Pineville v. Board of Education of Pineville Independent School District*, 272 Ky. 636.

Penalties and interest on taxes collected by fourth class cities on school taxes must be paid to the board of education.

*Abbott, et al. v. Oldham County Board of Education*, 272 Ky. 654.

If outstanding indebtedness when created did not exceed anticipated revenue as shown by budget and money was expended for lawful purposes, funding bonds may be issued and proceeds applied to reduction of said indebtedness.

*Commonwealth of Kentucky v. Brent Norfleet*. (Not yet printed in Kentucky Reports.)

Norfleet filed an affidavit of a teacher who stated in substance that she taught school in Pulaski County; that in 1907 she was a teacher in what was known as the Lorenz School; that Brent Norfleet attended that school and that he and two others named were students in the highest grade taught, known as the sixth grade. The subjects which Norfleet had studied were named and it was said that he was proficient in each of his studies and completed said grade, that said sixth grade as she then taught was equivalent to the present eighth grade, and that Brent Norfleet completed the equivalent of the eighth grade as they now teach same in the common

schools. In this connection the Court said: "With the greatest respect for the affiant who made the affidavit in this case, we cannot conclude that it was of such force or effect to show appellee's qualification. The affidavit shows work completed by Norfleet during the year 1907 in the sixth grade, which the teacher says was equivalent to the eighth grade 'as they teach them now in common schools'". The Court further said: "It cannot be denied that the eighth grade was required in 1907 and 1908, in the common schools of Kentucky". The Court said concerning the provisions of this statute: "We construe these provisions to be mandatory, so that one seeking to hold the office of board member must comply with one or the other of the specific methods of furnishing proof. . . . Expressing the views above, we are of the opinion that appellee Norfleet failed to demonstrate that he was possessed of proper qualifications to sit as a member of the Board".

*Bert Whittaker and Orville T. Wilson v. Commonwealth of Kentucky.* (Not yet printed in Kentucky Reports.)

Bert Whittaker filed an affidavit of his teacher. This affidavit stated that the teacher does not have the records of the school and cannot state from memory what grade he was in but that he passed and completed to the best of her knowledge whatever grade he was taking each of the two years she taught in the Burnside school. He also filed affidavits of persons who went to school with him which stated that they were in the eighth grade with Whittaker.

In passing on this information the Court said, as in the case of Commonwealth of Kentucky v. Norfleet, that it is ". . . mandatorily required that such qualification must be manifested by (a) the record of the school in which the eighth grade was completed, or (b) the affidavit of the teacher or teachers who taught the pupil through the eighth grade". The Court further said that since he failed to meet all of the requirements of (a) and (b) above cited, and failed to take advantage of (c), which provides for an examination, he was not qualified to serve.

In the case of Wilson, the Court held that because of the fact that he was employed as a teacher in the common schools when he was elected, he violated Section 4399-22, Kentucky Statutes, and was, therefore, not eligible to serve as a member of the board of education.



## ATTORNEY GENERAL'S OPINIONS

*Investing Sinking Fund. No. 6424.* A board of education does not have a right to invest the money collected for a sinking fund. This must be done by the depository in accordance with the 1934 Statutes, Section 4399-47.

*Incompatible Positions. No. 7498.* Positions of circuit court clerk and tax commissioner are each incompatible with position of teacher of schools.

*Expenses of Members of Boards of Education of Independent Districts. No. 7735.* Members of boards of education of independent districts are not entitled to expenses when attending board meetings of the county board of education.

*Expenses of Election. No. 8215.* The boards of education of cities of the first five classes are not required to pay the expenses of election. This should be paid by the cities from their general funds.

*Incompatible Offices. No. 8510.* "We are of the opinion that the board member has vacated his office as such when he accepts and gives bond for office of treasurer. The two are incompatible from every point of view."

*Removal of Subdistrict Trustees. No. 8657.* "The county board of education by virtue of authority vested in it by Section 4399-10, Kentucky Statutes, possesses power to fill vacancy (in office of subdistrict trustee) but I find no specific granting of authority to create a vacancy or to remove a subdistrict trustee."

*Insurance in Mutual Companies. No. 8846.* Boards of education have authority to insure their buildings with mutual companies.

*Collecting Delinquent Taxes. No. 8872.* Under an Act of the fourth Special Session, 1936 (Chapter 21), which is now numbered in Baldwin's 1937 Revision as Statute Number 4257a-1, the Revenue Department is empowered to collect delinquent taxes in school districts except in municipalities of the first to sixth classes, inclusive. Boards of education having delinquent taxes should immediately place such lists in the hands of the Commissioner of Revenue.

*Educational Obligation on Land Acquired by U. S. Without Consent of Legislature. No. 9016.* When government land has been acquired by purchase rather than by legislative consent, the state retains political jurisdiction over the land, and children residing thereon are entitled to be included in the school census. (*Ft. Leavenworth Railroad v. Lowe*, 114 U. S. 525. See also 281 U. S. 647 and 291 U. S. 242.)

*Children on United States Government Property. No. 9124.* Boards of education are not required to furnish educational facilities to children of government employees residing on the property adjacent to government dams.

*Fees of Tax Commissioner. No. 9124-1.* "I am unable to find in the Statutes any provision requiring the county board of education or any other board of education to pay part of the salary or fees to the county tax commissioner."

*Authority of Members of Merged Independent Districts. No. 10178.* Members of old independent board have right and authority to vote for the election of a county school superintendent.

*Employment of Married Teachers. No. 10793.* This opinion indicates that the only effective part of this bill is that part that reads "and that

marriage shall not be grounds for dismissal of any public school teacher or the cancellation of any teacher's contract". The opinion states: "The act means only this, that no board of education may dismiss any public school teacher regardless of teaching experience on the sole grounds of the existence of the marital relationship. . . . Nothing in the act requires the board of education to re-employ a married teacher, but marriage cannot be the sole reason for refusing to employ or for dismissing."