

SCHOOLS: Authority to pay entire cost of hospitalization insurance.

The board of education of a school district is without authority to pay the entire cost of hospitalization insurance for school employees and their dependents. Sec. 617, P.A. 269 of 1955 requires school employees to pay at least a portion of the cost of such insurance.

No. 4125

April 24, 1963.

Hon. John M. Sobieski
State Representative
The Capitol
Lansing, Michigan

You have requested my opinion as to whether a board of education of a Michigan school district can pay the complete cost of hospitalization insurance for school employees and their dependents.

Act 269, P.A. 1955, as amended, being C.L.S. 1956 § 340.1 et seq.; M.S.A. 1959 Rev. Vol. § 15.3001 et seq., is known as the School Code of 1955.

Sec. 617, as added by Act 215, P.A. 1956, to the School Code of 1955, provides as follows:

"The board of education of any school district in the process of establishing salaries is hereby permitted to use money in the general fund of the school district to provide insurance protection *on a joint participating basis* with school employees for any or all of the employees of the school district on any or all of the following at the discretion of the respective school boards:

- (1) Provide for hospital and surgical benefits for employee and dependents.
- (2) Provide health and accident type coverage." (Emphasis supplied)

The Michigan Supreme Court has been without opportunity to define the phrase "on a joint participating basis."

The word "joint" has been defined as done or produced by two or more persons working together. *Arndt v. Brockhausen*, 3 A 2d 384 (Penn. 1939).

The primary sense of the word "participating" has been held to mean the sharing or taking part with others. *Fireman's Fund Indemnity Company v. Hudson Associates, Inc.* 91 A 2d 454 (N.H. 1952).

In *Ledwith v. Bankers Life Insurance Company*, 54 N.W. 2d 409 (Neb. 1952), the court construed the word "participate" in a statute authorizing domestic insurance companies to establish, participate in and administer retirement plans for their employees to mean to take part in, being used in the sense of entering into rather than sharing so that the insurance company was not prohibited from paying the entire cost of its retirement plan.

Under these precedents I am constrained to rule that the legislature intended, under Sec. 617 of the School Code of 1955, that the board of education of a school district and school employees share the cost of hos-

pitalization insurance for employees and their dependents. Had the legislature not used the word "joint" under the decision in *Ledwith v. Bankers Life Insurance Company*, supra, a conclusion could be drawn that the board of education of a school district may enter into a plan for hospital and surgical benefits for school employees and their dependents at the entire cost of the school district.

I do not read Sec. 617 of the School Code of 1955 to require that the board of education of a school district and the school employees share the cost of hospitalization and surgical benefit insurance on an equal basis, although it is clear that the employee must bear at least a part of the cost of the insurance as determined by the board of education.

Therefore, it is my opinion that a board of education is without authority to pay the complete cost of hospitalization insurance for school employees and their dependents under Sec. 617 of the School Code of 1955.

FRANK J. KELLEY,
Attorney General.

TAXATION: Excess of Roll Levy.

630425.1

A township supervisor and the assessing officer of each city or village is authorized under Section 39 of the General Property Tax Law to add to the amount of taxes to be raised not more than 1% for the purpose of avoiding fractions in computation. The amount resulting, where this procedure is employed, is known as "the excess of roll levy." A city treasurer has no authority to add to the amount of taxes to be collected by him an additional sum as an excess levy since Section 39 of the General Property Tax Law does not apply to the collection of taxes by the city treasurer.

No. 3660

April 25, 1963.

Honorable John C. Hitchcock
State Representative
438 E. Jarvis
Hazel Park, Michigan

While you were a member of the State Legislature you directed my attention to a situation existing in a number of communities in which the city treasurer, in the process of collecting taxes, includes in the total tax a sum represented to be produced by the "excess roll levy." From the information furnished to this office the following summary of the procedure may be made:

1. The assessed valuation of the district (the city) is determined from the assessment rolls.
2. The assessed valuation of the district is multiplied by an equalization factor (conversion factor) to determine the equalized valuation of the district.
3. The equalized valuation is multiplied by the various tax rates which determine the total basic tax to be spread.