

Prior to the time of the vote on final adoption of the Constitution, a substitute constitution was offered to the Convention for consideration. Official Record, page 3255. The proponents of the substitute constitution did not make any substantial change in the concept of principal department heads except in two respects: first, they would include as single executives heading principal departments, an auditor general, a superintendent of public instruction, and a highway commissioner; second, they would require the appointments made by the Governor of department heads (whether a single executive or a board or commission) to be subject to the consent of the legislature. Official Record, page 3257.

It is proper to conclude that there was substantial unanimity among the delegates to the Constitutional Convention in coming to the conclusion that the heads of principal departments would be in one of the following three categories:

- (a) a single executive,
- (b) as expressly provided in the Constitution,
- (c) as provided by law.

Such intent of the delegates is clearly expressed in Article V, Sections 3 and 9 of the Michigan Constitution of 1963. Both provisions recognize boards and commissions as the heads of principal departments as so provided by the legislature if not by other provisions of the Constitution. These sections of the Constitution hereinbefore quoted and discussed compel me to conclude that the head of a principal department may consist of a board or commission if so established by law and if not in violation of the explicit provisions in this regard set forth in the Constitution. I therefore conclude that your question must be answered affirmatively.

FRANK J. KELLEY,
Attorney General.

650623.1 _____

SCHOOLS: Intermediate Districts – powers of.

A board of education of an intermediate school district is empowered to build facilities to house its staff.

No. 4412

June 23, 1965.

Hon. Emil Lockwood
State Senator
The Capitol
Lansing, Michigan

You have requested my opinion on the following question:

Is a board of education of an intermediate school district empowered to build facilities to house its staff?

School districts possess such powers as the legislature confers upon them by statute, expressly or by reasonably necessary implication. *Senghas v. L'Anse Creuse Public Schools*, 368 Mich. 557 (1962).

Act 269, P.A. 1955, as amended, being C.L.S. 1961 § 340.1 et seq.; M.S.A. 1959 Rev. Vol. § 15.3001 et seq., is known as the School Code of 1955.

Under Sec. 293a of the School Code of 1955, as added by Act 190, P.A. 1962, the supervision and control of an intermediate school district are vested in a board of education.

The powers of the board of education are enumerated in Sec. 298a of the School Code of 1955 as added by Act 190, P.A. 1962 and last amended by Act 290, P.A. 1964. This section of the School Code of 1955, as so amended, provides in part as follows:

“(1) (1) The board of education may lease or purchase sites, *build, lease or rent such facilities as may be necessary for its staff.*”
(Emphasis supplied)

In Sec. 298a (1) (1) of the School Code of 1955, as amended, supra, the legislature by plain, certain and unambiguous language has expressly authorized a board of education of an intermediate school district to build facilities for the housing of its staff.

Therefore, it is the opinion of the Attorney General that your question must be answered in the affirmative.

FRANK J. KELLEY,
Attorney General.

650706.1

CONSTITUTION: Deposit of state funds in banks.

BANKS AND BANKING: Depositories for state moneys – Capital notes and debentures.

STATE FUNDS: Deposits in banks.

Capital notes and debentures issued in accordance with Act No. 36, P.A. 1964, are not “capital” within the meaning of Article IX, Sec. 20, Const. 1963.

No. 4426

July 6, 1965.

Hon. Sanford A. Brown
State Treasurer
Lansing, Michigan

Article IX, Section 20 of the Michigan Constitution of 1963 reads in pertinent part:

“No state money shall be deposited in banks other than those organized under the national or state banking laws. *No state money shall be deposited* in any bank in excess of 50 percent of the capital and surplus of such bank. * * *” (Emphasis supplied)

Act No. 36, P.A. 1964 added a new section to the Michigan financial institutions act,¹ which provides:

¹ Act 341, P.A. 1937, as amended (C.L.S. § 487.1, et seq.; M.S.A. Rev. Vol. § 23.711 et seq.).