

Section 43 of Act 206, P.A. 1893, does not contemplate that the county treasurer can bill bond premium charges for previous tax years. Rather, unbilled bond premium charges are considered to be waived upon expiration of the tax year.

Section 44 of Act 206, P.A. 1893, as last amended by Act 275, P.A. 1964, provides in part as follows:

“\* \* \* When the bond of the treasurer, as provided in section 43, is furnished by a surety company, the cost of the bond shall be paid by the township from the contingent fund of the township. \* \* \*”

The Attorney General has ruled that the cost of such surety bond must be paid from the county general fund under section 43 of Act 206, P.A. 1893, *supra*, even though section 44 of that act provided otherwise in that the requirement of section 44 was repealed by implication and was not revived by subsequent amendment of section 44. O.A.G. 1959-60, Vol. II, page 162. Nor was such statutory requirement revived by the latest amendment to section 44 of Act 275, P.A. 1964, since the legislature was concerned with other portions of section 44, *supra*.

Therefore, it is the opinion of the Attorney General that a county treasurer is without authority to bill school districts in the year 1964 bond premium charges for the years 1959 through 1963.

FRANK J. KELLEY,  
*Attorney General.*

641201.5

**SCHOOL DISTRICTS:** Division of Territory.

Section 446 of the School Code of 1955, as amended, authorizes the division of both operating and non-operating school districts without bonded indebtedness and the attachment of the territory of such school districts to two or more school districts.

Where the school electors of a school district reject a proposed annexation of one school district to another school district, an election to divide the school district and to attach its territory to two or more school districts may be held within six months thereafter.

No. 4369

December 1, 1964.

Hon. Emil Lockwood  
State Senator  
106 Surrey Road  
St. Louis, Michigan

You advise that the electors of a certain fourth class school district operating elementary grades only have recently rejected a proposal to annex the district to a high school district. It is anticipated that the electors of the school district will be asked to pass upon the question of a division of the school district.

Based upon these facts you request an opinion on the following questions:

"1. Is Public Act 119, of 1962, applicable to operating school districts, or was it intended only for division of non-operating school districts?

"2. Is a vote for division of a school district, along the lines indicated, so substantially similar to annexation as to be precluded by virtue of M.S.A. 15.3511?"

1. 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.

The school electors of a fourth class school district are authorized under Sec. 67 of the School Code of 1955 to vote to discontinue school in the district and to make provision for the education of children in other school districts. By non-operating school district we assume you make reference to a fourth class school district that does not operate any schools in the district, the school electors having voted to discontinue school in the district.

By means of Act 119, P.A. 1962, the legislature amended the School Code of 1955 to add Secs. 446, 447, 448 and 449, authorizing procedures for the division of a school district and the attachment of its territory to two or more school districts.

Sec. 446 of the School Code of 1955, as last amended by Act 139, P.A. 1964, provides as follows:

*"(1) The board of education of an intermediate school district may divide a district which has no bonded indebtedness and attach the parts thereof to 2 or more operating districts when requested to do so by resolution of the board of the district to be divided, or when petitioned by not less than 5% of the registered general electors residing in the district as of the date the petition is received, and when the qualified school electors of the district, voting on the question at an annual or special election, approve the division. Any city or township clerk shall certify to the superintendent of the intermediate school district the number of registered general electors residing in a school district when requested by such superintendent.*

*"The resolution of the board of the district to be divided, or the petition of the registered general electors residing in the district may determine the effective date of the division of the school district which shall not be later than the end of the fiscal year in which the election takes place.*

*"(2) The board of education of the intermediate school district of the county in which the district to be divided is constituent shall determine, by resolution, the line of division by clear description. A school district shall be constituent in the county in which the latest annual financial report was filed with the superintendent of the intermediate school district. The determination of the line of division shall be based on the resolution of the board of education of the district to be divided or on the petition of the electors." (Emphasis supplied)*

In Sec. 447 the legislature has specified the election procedures to effect a division of a school district and has determined the legal effects of a

division of a school district and the attachment of its territory to two or more school districts.

The legislative intent is to be determined from the language of the act, and where it is clear and unambiguous, the statute must be given effect according to its plain meaning. *Smith v. City Commission of Grand Rapids*, 281 Mich. 235 (1937).

The only restriction placed by the legislature upon the power to divide school districts and to attach its territory to two or more school districts is that the district to be divided must have no bonded indebtedness. It must follow that the authority to divide a school district without bonded indebtedness applies equally to operating and non-operating districts.

Therefore, it is the opinion of the Attorney General that Sec. 446 of the School Code of 1955, as amended by Act 139, P.A. 1964, authorizes the division of both operating and non-operating school districts without bonded indebtedness and the attachment of the territory of school districts to two or more school districts.

2. Section 511 of the School Code of 1955, as last amended by Act 208, P.A. 1963, and Act 39, P.A. 1963, Second Extra Session, being M.S.A. Cur. Mat. § 15.3511, cited in your second question, reads in part as follows:

“\* \* \* The same question or measure involving consolidation of school districts, annexation of entire districts, annexation or transfer of a portion of 1 school district to another, or bonding of school districts, shall not be submitted to the voters of any school district more often than once in 6 months, unless the board is presented with a petition requesting the board to call another election and signed by qualified school electors of the district to the number of not less than 50% of the registered general electors residing in the district as of the date the petition is presented to the board. Any city or township clerk shall certify to the intermediate school district superintendent of schools the number of registered general electors residing in a school district when requested by the intermediate school district superintendent, who shall make the information available to the board of the district.”

In Sec. 511 of the School Code of 1955, *supra*, the legislature has prescribed an election on the same question or measure of annexation of an entire school district more often than once in six months unless not less than 50% of the registered school electors petition for the same.

Sec. 431 sets forth the procedure for annexation of one school district to another school district. The clear import of this statute is to annex the entire territory of one school district to another.

The division of the entire territory of one school district and its attachment to two or more school districts under Sec. 446 of the School Code of 1955, *supra*, presents an entirely different question for consideration by the school electors of the district proposed to be divided.

It must be concluded, therefore, that Sec. 511 of the School Code of 1955 does not preclude an election to divide a school district and to attach its territory to two or more school districts to be held within six months

after the school electors have rejected a proposed annexation of one school district to another school district.

FRANK J. KELLEY,  
*Attorney General.*

641210.1

**MICHIGAN STATE SAFETY COMMISSION: Membership of State Highway Commissioner and Superintendent of Public Instruction.**

Effective either July 1, 1965, or upon the effective date of the resignation of the incumbent State Highway Commissioner at an earlier date, the chairman of the State Highway Commission, or such other person as may be designated by the Commission, shall replace the State Highway Commissioner as a member of the State Safety Commission.

Effective July 1, 1965, the Superintendent of Public Instruction appointed by the State Board of Education will become a member of the State Safety Commission.

No. 4391

December 10, 1964.

Mr. Gerald W. Shipman  
Executive Secretary  
Michigan State Safety Commission  
Stevens T. Mason Building  
Lansing 26, Michigan

Your letter cites Act No. 188, P.A. 1941,<sup>1</sup> which created the Michigan State Safety Commission. Among the members thereof as designated by that act are the State Highway Commissioner and the Superintendent of Public Instruction. You note that each of the present incumbents of those offices are elected officials, but that their respective successors will be appointed under the 1963 Constitution and no longer elected. The appointee in the Highway Department is to be titled "Director" rather than "Commissioner." You request my opinion in answer to the following questions:

"1. Should the Chairman of the State Highway Commission now be considered the ex-officio member of the State Safety Commission rather than the 'Director'?"

"2. Would the status of the Superintendent of Public Instruction be affected?"

"3. Is any legislation required to clarify the situation?"

The State Highway Commissioner is a statutory officer.<sup>2</sup> The present incumbent was elected at the biennial spring election of 1961 for a four-year term commencing on July 1, 1961.<sup>3</sup>

Article V, Section 28 of the 1963 Constitution established a State Highway Commission, and in part provides:

<sup>1</sup> C.L. 1948 § 256.561, et seq.; M.S.A. 1960 Rev. Vol. § 9.1704, et seq.

<sup>2</sup> The office of State Highway Commissioner was created by Section 2, Chapter V, of Act No. 283, P.A. 1909. C.L. 1948 § 225.2, M.S.A. 1958 Rev. Vol. § 9.202.

<sup>3</sup> C.L.S. 1961 § 168.306, M.S.A. 1956 Rev. Vol. § 6.1306.