

issued. See Chapter IV, § 2,<sup>1</sup> § 3,<sup>2</sup> § 3a,<sup>3</sup> § 4;<sup>4</sup> Chapter VI, § 8,<sup>5</sup> Chapter VII, § 1b,<sup>6</sup> and § 2,<sup>7</sup> *inter alia*. Provisions are also contained in 1943 PA 202 controlling the disposition of revenues, as compared to bond proceeds, of such public improvements. See also §§ 15 and 16 of the Revenue Bond Act of 1933, 1933 PA 94, respectively MCLA 141.115; MSA 5.2745 and MCLA 141.116; MSA 5.2746, imposing similar requirements.

Therefore, it is my opinion that tax revenues, realized from a levy pursuant to 1976 PA 127 and monies realized from the issuance of bonds pursuant thereto, must be used for the special purposes expressed in the Act.

FRANK J. KELLEY,  
*Attorney General.*

760923.1

**SCHOOLS AND SCHOOL DISTRICTS:** Removal of unauthorized visitors.

**SHERIFFS:** Authority to remove unauthorized visitors from school district premises.

County law enforcement officers may remove unauthorized visitors from the buildings or grounds of a school district.

Opinion No. 5039

September 23, 1976.

Honorable Francis Spaniola  
State Representative  
The Capitol  
Lansing, Michigan

You have requested my opinion on the following question:

"Can a county law enforcement agency act to resolve the problem of unwanted and disruptive visitors on the campus or in the buildings of a K-12 school district?"

Const 1963, art 7, § 4 provides that each organized county shall elect a sheriff whose powers and duties are prescribed by law. 1919 PA 237, § 7; MCLA 45.407; MSA 5.917 provides that the sheriff shall perform "all reasonable services within the jurisdiction of their offices for which the county may be liable. . . ." The duties of a sheriff have been construed to include the ". . . preservation of peace; the arrest and detention of persons charged with the commission of a public offense. . . ." *White v East Saginaw*, 43 Mich 567, 570; 6 NW 86, 87 (1880).

<sup>1</sup> MCLA 134.2; MSA 5.3188(14)

<sup>2</sup> MCLA 134.3; MSA 5.3199(15)

<sup>3</sup> MCLA 134:3a; MSA 5.3188(15a)

<sup>4</sup> MCLA 134.4; MSA 5.3188(16)

<sup>5</sup> MCLA 136.8; MSA 5.3188(35)

<sup>6</sup> MCLA 137.1b; MSA 5.3188(45b)

<sup>7</sup> MCLA 137.2; MSA 5.3188(46)

In OAG, 1975-1976, No 4966, p . . . (April 6, 1976), the question was asked whether the county sheriff was required to provide police protection to a village within the county, absent a contractual obligation. The opinion held that the jurisdiction of the sheriff was coextensive with the geographic area of the county, including the communities within the county. The jurisdiction of a sheriff extends to the enforcement of state law and county ordinances.

The Michigan Penal Code, being 1931 PA 238; MCLA 750.1 *et seq*; MSA 28.191 *et seq*, provides in § 552 as follows:

“Any person who shall wilfully enter, upon the lands or premises of another without lawful authority, after having been forbidden so to do by the owner or occupant, agent or servant of the owner or occupant, or any person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, the agent or servant of either, who without lawful authority neglects or refuses to depart therefrom, shall be guilty of a misdemeanor. . . .”

MCLA 750.552; MSA 28.820(1)

In *People v Johnson*, 16 Mich App 745; 168 NW2d 913 (1969), the Michigan Court of Appeals upheld the application of this statute to property held by a local unit of government. That case involved a prosecution in which the City of Detroit was the complainant against a number of people who reopened a boarded building owned by the city and under the control of the Detroit Housing Commission and who refused to vacate the premises when asked to do so. It was argued that the statute should be construed so as to prevent a non-occupying owner (e.g. a city) from applying the statutory provisions to a peaceful possessor. In a footnote, the Court stated:

“The ‘premises of another’ as used in the statute is broad enough to include property owned by a city or county.”

16 Mich App at 748; 168 NW2d at 914

The property owned by school districts must also be considered as within the meaning of the phrase “premises of another.” By statute, the school districts are bodies with power to hold title to property as owners. MCLA 340.352; MSA 15.3352.

In *Kitchens v State*, 221 Ga 839; 147 SE2d 509 (1966), relied on by the Court of Appeals in *People v Johnson*, *supra*, the Court decided the precise issue raised by your question. That case was a prosecution under a provision of the Georgia Code very similar to § 552 of 1931 PA 238, *supra*, in which the defendant entered a school building, created a disturbance and refused to depart when asked to do so by the principal. That Court held:

“The ‘premises of another’ as these words are employed and used in the 1960 Act are broad enough to include and embrace property owned by and used for public school purposes by a city or a county.”

221 Ga at 840; 147 SE2d at 510

In conclusion, I advise that the protection afforded by § 552 of 1931 PA 238, *supra*, is available to school districts and may be invoked in

removing unauthorized visitors from their premises. The statute, being a state law, may be enforced by the county peace officers.

FRANK J. KELLEY,  
*Attorney General.*

760929.4

**RETIREMENT AND PENSIONS: Judges Retirement System.**

**JUDGES RETIREMENT SYSTEM: Rights of survivors where member dies after leaving the bench but before retirement.**

Under the judges retirement act, subsequent to the effective date of 1974 PA 337, a member who has died after leaving the bench prior to receiving retirement benefits is not within the category of being a member who died "in office" or "following his retirement"; therefore, the surviving spouse or children of the member are not entitled to benefits under the judges retirement act. Spouses of members of the judges retirement system whose rights were determined prior to 1974 PA 337 are nevertheless entitled to retain their right to spousal benefits.

Opinion No. 5008

September 29, 1976.

Mr. Stephen VanNote  
Executive Secretary  
Judges' Retirement System  
Mason Building, 2nd Floor West  
Lansing, Michigan 48913

You have requested my opinion on several questions regarding the judges' retirement act, 1951 PA 198, MCLA 38.801 *et seq*; MSA 27.125(1) *et seq*. In particular, your questions concern MCLA 38.819c; MSA 27.125(19.3), which, in pertinent part, provides:

"(1) If a member who has 8 or more years of service credit dies while in office or if a member dies following his retirement, the applicable following annuity shall be paid:

"(a) To the spouse. If the deceased member or retired member leaves a spouse to whom he was married at the time of his death, the spouse shall be paid an annuity equal to  $\frac{1}{2}$  the amount of annuity computed according to section 14 based on the deceased member's final salary and service credit. A spouse's annuity shall terminate upon the death of the spouse.

"(b) To the children. If the deceased member or retired member does not leave a spouse, or if the spouse dies subsequent to the member's or retired member's death, and if no annuity is payable or will become payable under section 15, each of the member's or retired member's unmarried children under the age of 19 years shall be paid an annuity terminating upon his adoption, marriage, attain-