

5252.

GROUP LIFE INSURANCE—SCHOOL DISTRICT—“POLITICAL SUBDIVISION”—“DISTRICT OF THIS STATE”—SECTION 3917.01 (B) (7) RC—INSURANCE COMPANY MAY ISSUE TO BOARD OF EDUCATION OR SCHOOL DISTRICT POLICY OF GROUP LIFE INSURANCE—INSURANCE ON EMPLOYEES OF BOARD OR DISTRICT—PREMIUMS SHALL BE ENTIRELY PAID BY INSURED EMPLOYEES.

SYLLABUS:

A school district is a “political subdivision” or a “district of this state” within the meaning of Section 3917.01 (B) (7), Revised Code; therefore, a company engaging in the writing of group life insurance, may issue to a board of education or school district a policy of group life insurance insuring the employees of the board or district, provided the premiums therefor are paid entirely by the employees so insured.

Columbus, Ohio, May 25, 1955

Hon. Walter A. Robinson, Superintendent of Insurance
Columbus, Ohio

Dear Sir:

I have before me your request for my opinion which is as follows:

“We request your advice as to whether Section 3917.01 of the Revised Code of Ohio authorizes the issuance to a board of

education of a group life insurance policy covering employees of the board.”

Section 3917.01 to 3917.06, inclusive, Revised Code, are the code sections which enumerate the underwriting powers of a company engaging in the writing of group life insurance. Section 3917.01, Revised Code, reads in material part as follows:

“* * * (B) As used in sections 3917.01 to 3917.06, inclusive, of the Revised Code, the following forms of life insurance are group life insurance: * * *

“(7) Life insurance covering *employees of a political subdivision or district of this state*, or of an educational or other institution supported in whole or in part by public funds, or of any classes thereof, determined by conditions pertaining to employment, or of this state or any department or division thereof, written under a policy issued to such political subdivision, district or institution, or the proper official or board of such state department or division which is the employer for the purpose of such sections, the premium on which is to be paid by such employees for the benefit of persons other than the employer; provided that this section does not permit the state or any of the political subdivisions enumerated to pay any premiums stated in this section * * *.”
(Emphasis added.)

Is a school district a “*political subdivision*” or “district of this state?” If it is, then a group life insurance company may issue a group contract to the officers or board governing the subdivision or district, *as employer*, covering the employees of the subdivision or district.

Section 3313.17, Revised Code, provides that the board of education of each school district shall be a body politic and corporate.

Section 3311.01, Revised Code, classifying school districts, reads as follows:

“The school *districts of the state* shall be styled: ‘city school districts,’ ‘local school districts,’ ‘exempted village school districts,’ ‘joint high school districts,’ and ‘joint vocational school districts.’”
(Emphasis added.)

The foregoing statute characterizes the various school districts as “districts of the state.” In addition to being a “district of the state,” a school district very readily fits within the category of “political subdivision.” In *Cleveland v. Library Board*, 94 Ohio St., 311, it was held that although a municipal corporation and a school district occupy substantially

the same territory, and have substantially the same population, they are separate and distinct political subdivisions.

In Chapter 35 of the Revised Code, relative to election procedure and election officials, it is provided in Section 3501.01, Revised Code, as follows:

“As used in the sections of the Revised Code relating to elections:

“* * * (N) ‘*Political subdivision*’ means ‘county,’ ‘township,’ ‘city,’ ‘village,’ or ‘*school district*.’” (Emphasis added.)

It would seem clear that school districts, being organized as a part of the machinery of the government for the performance of functions of a public nature, partake of a portion of the state’s sovereignty, and are therefore political subdivisions.

There are other statutes which lend support to this conclusion, namely, the Uniform Bond Act, Section 133.01 et seq., R.C., and several others. No useful purpose would be served by a further elaboration on this point. Suffice it to say that a school district satisfies the categories of “political subdivision” or “district of this state” found in the group life insurance law.

An insurance company, therefore, may lawfully issue to the board of education a contract of group life insurance covering the employes of the board, the board of education being the official body of the school district.

It will be recalled that Section 3917.01 (B) (7), Revised Code, provides that the premium on a group life policy issued to a political subdivision “is to be paid by such employes for the benefit of persons other than the employer; provided that this section does not permit the state or any of the political subdivisions enumerated to pay any premiums stated in this section * * *.” At this point mention should be made of Opinion No. 4685, Opinions of the Attorney General for 1941, page 1091, the syllabus of which is as follows:

“1. A municipal corporation may as part of the compensation of its employes, pursuant to proper action by its legislative authority, authorize the payment of all or a portion of a premium of group life insurance covering the levies of such employes, except members of the police and fire departments.

“2. An insurance company may not lawfully issue a contract of life insurance in this state covering a group of employes of a municipal corporation unless the entire premium on such policy is to be paid by such employes.”

The 1941 opinion appears to have an inconsistent syllabus. The Attorney General ruled in effect that the legislature through the enactment of the group life insurance law, could not thereby *prohibit* a municipality from paying premiums for such insurance, because of the "home rule" power. Yet in order to give effect to the statutory provision in the group life law concerning payment of premiums, the author of the 1941 opinion said that the legislature had, in effect, placed a restraint upon the insurance *company*. The insurance company therefore was held not to be invested with the *power* to insure a group of municipal employes under a contract issued to their employer, unless the employes pay the premiums. This was for the reason that a group life insurance company has only such underwriting powers as can be derived from Chapter 3917, Revised Code. That chapter spells out the particular groups which are insurable and the essential conditions which must be met by both the company and the insured before a valid contract of insurance may be issued.

Your request does not pose any problems regarding the scope and extent of the home rule power of municipalities, inasmuch as "school districts" are the subject of inquiry.

In this regard it must be pointed out that Section 3917.01 (B) (7), Revised Code, does not permit the political subdivision to pay any premiums. School boards are strictly creatures of statute, which means that they have only such powers as can be derived from statutes. See 32 Ohio Jurisprudence, Public Officers, Sec. 74; and 36 Ohio Jurisprudence, Schools, Sec. 46.

I find no statute in the school code which would permit or authorize a school board to expend public funds for premiums on group life insurance covering its employes. By way of contrast, it will be noted that the legislature *specifically* granted school districts the power to procure and pay for *liability* and *property damage* insurance covering its school buses and *accident* insurance covering all pupils transported under the authority of the board. See Section 3327, Revised Code.

Since the group insurer has only such underwriting powers as are capable of being derived from the insurance statutes here under consideration, I am compelled to conclude that it may not issue a contract of group life insurance to a school board *if* the premiums therefor are to be paid by the board.

Section 3917.04, Revised Code, provides a simple method by which

the board's employes might pay the premiums. This section reads in material part :

“If any employee of a political subdivision or district of this state * * * authorizes in writing the auditor or other proper officer of the political subdivision * * * of which he is an employee, to deduct from his salary or wages the premium or portion thereof agreed to be paid by him to an insurer authorized to do business in the state for life * * * insurance * * * insuring a group under the group plan * * * such political subdivision * * * of which he is an employee may deduct from his salary or wages such premium * * * agreed to be paid by such employee, and pay the same to the insurer. * * *”

Accordingly, it is my opinion that a school district is a “political subdivision” or a “district of this state” within the meaning of Section 3917.01 (B), (7), Revised Code; therefore, a company engaging in the writing of group life insurance, may issue to a board of education or school district a policy of group life insurance insuring the employes of the board or district, provided the premiums therefor are paid entirely by the employes so insured.

Respectfully,

C. WILLIAM O'NEILL
Attorney General