

OPINION NO. 69-158

Syllabus:

A board of elections is not required to request a board of county commissioners for a transfer of funds within its appropriation from one class to another class of expenditures.

To: Everett Burton, Scioto County Pros. Atty., Portsmouth, Ohio
By: Paul W. Brown, Attorney General, November 25, 1969

Your request for my opinion is as follows:

"The Board of Commissioners of Scioto County has refused a request of the Scioto County Board of Elections to transfer funds within its appropriation. The request was to transfer \$700.00 from A3A2 (Salary) to A3A4 (Equipment) to cover the cost of repairs to the locks and covers of forty-two precinct registration binders. The Board of Elections has not supplied the Board of County Commissioners with any estimates of the cost of such repairs.

"The position of the Board of Elections is that the transfer is mandatory under Section 3501.17 of the Revised Code and that it is not required to furnish an estimate of the cost of repairs.

"The Board of Commissioners has advised the Board of Elections to proceed with the repairs and that the funds necessary to pay the cost will be transferred when the amount is determined. Their position is that this complies with said section.

"I respectfully request your opinion as to whether or not the request by the Board of Elections to the Board of County Commissioners for a transfer of funds as above set forth is mandatory."

My research reveals that there has been nothing intervening which vitiates the reasoning and the conclusions reached by one of my predecessors in Opinion No. 1961, Opinions of the Attorney General for 1930, page 887. That opinion dealt with Section 4785.20, General Code, which has been succeeded by Section 3501.17, Revised Code, which you reference. The two sections contain substantially the same provisions. At page 891 of the cited opinion, the comments were made:

"In analyzing the section last quoted, it will appear that such election expenses are paid in the same manner that other county expenses are paid, upon vouchers of the board certified to by the chairman or acting chairman and the clerk or acting clerk upon warrants of the auditor * * *. It is clear that such payments are not required to be submitted to the county commissioners, excepting, of course, the county commissioners are required to make appropriations."

Branch 3 of the syllabus of the foregoing opinion reads:

"When the election board orders necessary supplies or makes proper contracts for the printing of the ballots, payments therefor shall be made upon vouchers of the board certified to by its chairman or acting chairman and the clerk or deputy clerk upon warrants of the auditor."

Likewise, the syllabus in Opinion No. 4023, Opinions of the Attorney General for 1932, page 154, states:

"County commissioners do not have authority to arbitrarily change the amounts requested and submitted in the budget of the board of elections for the necessary and proper expenses of the board and substitute their own arbitrary figures in lieu of the amounts requested."

The facts which gave rise to the foregoing opinion were that the commissioners had made certain changes in the request of the board of elections which request was "classified in accordance with their financial needs along various lines." "In the course of time certain funds were exhausted and the county commissioners were asked to transfer funds from the surplus in the fund allocated to precinct judges and clerks, and place same in part to the credit of the fund for office supplies."

Also, the question was posed, "If the county commissioners have the authority lodged within themselves, or in conjunction with the county auditor, is it their duty, upon request of the board of elections, to transfer money from a fund provided for a certain purpose wherein there may be a surplus to a fund provided for a different purpose?" Unfortunately, my predecessor considered that an answer to this question was unnecessary in view of the above syllabus. However, in commenting on Section 4785.20, General Code (Section 3501.17, Revised Code), he pointed out, "Here again the legislature has used the word 'shall' in expressly giving to the boards of elections the right to fix the amount of revenue they are to receive from the subdivision. This right is only limited as to the amount being sufficient to provide for the necessary and proper expenses of the board." With such right im-

posed in the boards of elections there would appear to be no reason for requiring a board to return to the commissioners for transfers from one item to another of its appropriation.

It is therefore, my opinion and you are hereby advised that a board of elections is not required to request a board of county commissioners for a transfer of funds within its appropriation from one class to another class of expenditures.