

**OPINION NO. 66-097****Syllabus:**

County commissioners have no legal authority to appropriate a sum of money to be used in preparing the official plan for community colleges.

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**To: J. Warren Bettis, Columbiana County Pros. Atty., Lisbon, Ohio**  
**By: William B. Saxbe, Attorney General, May 24, 1966**

I acknowledge receipt of your request for my opinion reading as follows:

"I have been requested by the County Commissioners of Columbiana County to request your opinion as to whether or not they may appropriate funds for the Columbiana County Community College in preparing the official plans for a community college pursuant to provisions of Section 3354.07.

"The factual situation insofar as it is relevant to the question involved is as follows: A community college has been created by the Board of County Commissioners of Columbiana County, Ohio, in accordance with Revised Code Section 3354.02; Trustees have been appointed and the Board has been organized in accordance with the statute. They are at the present time in the process of completing plans to be approved by the Board of Regents and have in fact requested a Charter from the Board of Regents of the State of Ohio. In order to prepare the official plans, it has been necessary to retain certain professional help, conduct surveys and other necessary data in the preparation of said plan. Revised Code Section 3354.08, reads as follows: 'Gifts and bequests. For the purpose of preparing the official plan for a community college, pursuant to provisions of Section 3354.07, of the Revised Code, the Board of Trustees of a community college district may receive and expend gifts, grants, bequests or devises, or public funds appropriated for such purpose.'

"Therefore, may the County Commissioners of Columbiana County appropriate a sum of money to be used for the purpose as outlined in above referred to statute."

The answer to this question depends for its solution upon the powers of the county commissioners.

It would appear that no principle of law is better settled in Ohio than that the board of county commissioners, being an instrumentality of the state government, has only such powers as are conferred by law. Many cases could be cited in support of this proposition, but it is deemed sufficient to quote from the statement of Matthias, J., in the case of Elder v. Smith, 103 Ohio St. 369, at page 370, where it is stated:

"It has long been settled in this State that the Board of County Commissioners has such powers and jurisdiction, and only such, as are conferred by statute. \* \* \*"

We have, therefore, to look in each case to the statutes of Ohio to see whether the power about which you inquire has been granted by the legislature.

In reviewing Chapter 307, Revised Code, which deals with the powers of the board of county commissioners, it is noted that the legislature has authorized the commissioners to appropriate and contribute money for many and different and varied purposes, but I have been unable to find any provision in the statutes which directly, or by implication, attempts to grant authority to county commissioners to appropriate a sum of money for education or for the purpose referred to in your letter.

Section 307.22, Revised Code, provides in part:

"The board of county commissioners may receive bequests, donations, and gifts of real and personal property and money to promote and advance the cause of education in the county. \* \* \*"

This section permits the money so received to be used for the purpose intended, but no authority is granted to make appropriations for such educational purposes.

Section 3354.08, Revised Code, provides:

"For the purpose of preparing the official plan for a community college, pursuant to provisions of section 3354.07 of the Revised Code, the board of trustees of a community college district may receive and expend gifts, grants, bequests or devises, or public funds appropriated for such purpose."

While this section has nothing to do with the powers of county commissioners, it does reveal that the legislature was cognizant of the need for appropriation of public funds when so received by the trustees of a community college.

Returning to the principle of law that county commissioners have only such powers as are conferred upon them by law, and in the absence of any statute which authorized the commissioners to make appropriation of public funds for community colleges, it is, consequently, my opinion that such appropriation would not be legal. The purpose of such appropriation may seem a laudable one, but a laudable purpose is not necessarily a lawful purpose.

In specific answer to your inquiry, it is my opinion that county commissioners have no legal authority to appropriate a sum of money to be used in preparing the official plan for community colleges.