

4477.

COUNTY COMMISSIONERS—AUTHORIZED TO EXPEND COUNTY FUNDS FOR PAYMENT OF OFFICE EXPENSES OF COUNTY AGENT FOR FEDERAL EMERGENCY RELIEF ADMINISTRATION WHEN.

*SYLLABUS:*

*If the County Commissioners, with the consent of the Director of Finance of the State of Ohio, appoint the representatives of the Federal Emergency Relief Administration in their county as agent for any or all the poor relief duties with which they are charged under the law and such representatives accept such appointment and a copy of such agreement is filed with the Auditor of State, the County Commissioners have authority to expend county funds for the payment of rent, light, heat, water and other office expenses of their county agent, the Federal Relief Administration, in their county.*

COLUMBUS, OHIO, July 30, 1935.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—I am in receipt of your request for my opinion which reads as follows:

“You are respectfully requested to furnish this department with your written opinion upon the following:

Under date of April 9th, 1935, you rendered opinion No. 4196 in which you held that there was no authority for non-charter counties to expend county funds for the payment of rent, light, heat and other office expenses for the purpose of carrying on the Federal Relief Administration in the county, such administration being (at that time) solely under the control of the Federal Government.

Since the rendition of that opinion, House Bill No. 501 was passed as an emergency act, effective June 5, 1935.

QUESTION: Since the enactment of House Bill No. 501, may counties pay rent and other expenses in connection with the operation of the FERA—

*First*, without the commissioners, under Section one of House Bill No. 501, designating, with the approval of the Director of Finance of the State of Ohio, a representative or representatives of such Federal Emergency Relief Administration as agent, and delegating to him or them all or any part of the powers and functions vested in the county commissioners, and

*Second*, if such action is taken by the commissioners, and such agent is delegated?”

In my opinion No. 4196 rendered April 29th, 1935, it was held as disclosed by the syllabus:

“There is no authority for non-charter counties to expend county funds for the payment of rent, light, heat, water and other office expenses for the purpose of carrying on the Federal Relief Administration in the county, such Administration at the present time being solely under the control of the Federal Government.”

At the time of the rendition of the above opinion the Carey Bill, House Bill No. 501, passed at the regular session of the 91st General Assembly, had not passed the Senate, and so it was stated in the course of my opinion:

“ \* \* \* It may be that such Bill (H. B. 501) would have some relevancy with respect to the question you ask, but inasmuch as it is not yet a law I must reserve commenting on its provisions.”

Section 1 of House Bill No. 501, provides inter alia:

“The state relief commission created by the act ‘to authorize the appointment of a state relief commission and to declare an emergency’, passed March 31, 1932, approved April 5, 1932, and known as Amended Senate Bill No. 1, having ceased to exist by reason of the terms of said act and the act amendatory thereof, it shall henceforth be the policy of the state of Ohio and of each subdivision and municipal corporation, so far as governed by state law, *to coordinate and correlate* all emergency poor relief work and activities and administrative policies in connection therewith, with the work, activities and policies of the federal emergency relief administration, \* \* \*. For the purpose of continuing the administration of laws of this state, now or hereafter in force, relating to emergency poor relief, all powers and duties by any state law vested in or imposed upon the said state relief commission are hereby vested in and imposed upon the county commissioners of each county; and the county commissioners are hereby expressly authorized from time to time, whenever in their discretion such action may be necessary in order to conserve and continue the coordination and correlation of state and local and federal work and expenditures hereby declared to be the policy of this state, *to designate with the approval of the director of finance of the state of Ohio, a representative or representatives of such federal emergency poor relief administration, or such other federal agency, as its agent* and delegate to him or them *all or any part of the powers and functions hereby vested in the county commissioners*, subject to

such terms and conditions with respect to auditing, examinations, reports and other like details as may be decreed by the county commissioners and such federal agency *in writing*, one copy of which shall be filed with the auditor of state. \* \* \* ” (Italics the writer’s.)

If Section 1 of House Bill No. 501 had merely given the county the right to “*coordinate and correlate* all emergency poor relief work and administrative policies in connection therewith, with the work, activities and policies of the Federal Emergency Relief Administration”, there would be no authority to expend county funds for the rent, light, heat, water and other office expenses of the County Federal Relief Administration. This, for the reason that such would involve the expenditure of county funds, and it is stated in the case of *State ex rel. Bentley & Sons Co., vs. Pierce, Auditor*, 96 O. S., 44, as disclosed by the third branch of the syllabus with reference to county commissioners:

“3. In case of doubt as to the right of any administrative board to expend public moneys under a legislative grant, such doubt must be resolved in favor of the public and against the grant of power.”

However, in the latter part of Section 1 of House Bill No. 501, *supra*, provision is made, with the approval of the Director of Finance of the State of Ohio, for the designation of a representative or representatives of the Federal Poor Relief Administration, as a *county agent*, to perform all or part of the poor relief powers and functions vested in the County Commissioners, one copy of which agreement must be filed with the Auditor of State. Hence, it necessarily follows that if the County Commissioners, with the consent of the Director of Finance of the State of Ohio, appoint representatives of the Federal Emergency Relief Administration in the county as agent for any or all the poor relief duties and functions with which they are charged under the law and such representatives accept such appointment and a copy of such agreement is filed with the Auditor of State, the County Commissioners would have authority to expend county funds for the payment of rent, light, heat, water and other office expenses of their county agent, The Federal Relief Administration, in their county.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*