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AGRICULTURAL SOCIETY, COUNTY — OWNS OR HAS LEASED FOR TERM OF TWENTY YEARS OR MORE, SITE WHEREON TO HOLD FAIRS, OR WHERE TITLE IS VESTED IN FEE IN COUNTY—COUNTY COMMISSIONERS EMPOWERED TO APPROPRIATE FROM GENERAL FUND, NOT TO EXCEED IN AGGREGATE, TEN THOUSAND DOLLARS IN ANY YEAR—PURPOSES, TO CONSTRUCT RACE TRACK AND MAKE AUTHORIZED IMPROVEMENTS, IN ADDITION TO PROCEEDS OF SPECIAL TAX LEVY, APPROVED BY ELECTORS AT NOVEMBER ELECTION IN NEXT PRECEDING YEAR, PURPOSE TO ERECT COLISEUM FOR FAIR PURPOSES —SECTION 9887, G. C.

SYLLABUS:

The county commissioners of a county wherein there is a county agricultural society which owns, or has leased for a term of twenty years or more, a site whereon to hold fairs, or where the title to such site is vested in fee in the county, are empowered by Section 9887 General Code, to appropriate from the general fund not to exceed in the aggregate the sum of \$10,000 in any year, for the purposes of constructing a race track and making other authorized improvements thereon, in addition to the proceeds of a special tax levy approved by the electors under that section at the November election in the next preceding year, for the purpose of erecting thereon a coliseum for fair purposes.

Columbus, Ohio, December 21, 1945

Hon. Kenneth M. Robbins, Prosecuting Attorney
Circleville, Ohio

Dear Sir:

This will acknowledge receipt of your letter requesting my opinion on the question whether or not the county commissioners of Pickaway county are authorized by Section 9887, General Code, to make appropriations from the general fund in the aggregate amount of \$10,000 during the year 1945, for the purpose of constructing a race track and erecting certain small buildings on the county fairgrounds, in addition to the proceeds of a special one mill tax levy approved by the electors under that section at the November election in 1944, for the purpose of erecting a coliseum.

Section 9887, General Code, so far as pertinent to your inquiry, reads as follows:

“In counties wherein there is a county agricultural society which has purchased, or leased, real estate for a term of not less than twenty years, a site whereon to hold fairs or where the title to such site is vested in fee in the county, the county commissioners, if they think it is for the best interest of the county, and society, may erect or repair buildings or otherwise improve such site and pay the rental thereof, or contribute to or pay any other form of indebtedness of said society. The commissioners are authorized to appropriate from the general fund such an amount as they deem necessary for any of said purposes. Provided, however, that if the amount appropriated to be expended in the purchase of such real estate or in the erection of buildings or other improvements or payments of rent or other forms of indebtedness of said society shall exceed ten thousand dollars, in any one year, such expenditure shall not be made unless the question of a levy of the tax therefor is submitted to the qualified electors of the county at some general election, a notice of which, specifying the amount to be levied, has been given at least thirty days previous to such election, in one or more newspapers published and of general circulation in the county. The county commissioners shall pass a resolution authorizing the submission of the question to the electors and certify their action to the board of deputy state supervisors of elections of the county who shall prepare and furnish the necessary ballots and other supplies. * * *

If a majority of the vote cast be in favor of such tax, it may be levied and collected as other taxes.”

It seems quite clear that this statute authorizes the county commissioners, without the approval of the electors, to appropriate from the general fund in any year not to exceed \$10,000 for the purposes referred to therein, irrespective of whether or not the entire amount is appropriated for one particular improvement, or is divided among a group of improvements, and that it is only in cases where the commissioners desire to make appropriations in excess of the \$10,000 limitation that any question as to their authority to do so can arise.

While a different and clearer phraseology might have been employed by the legislature with respect to appropriations in excess of the \$10,000 limitation, it is my view, as already indicated, that the county commissioners may, without the approving vote of the electors, appropriate up to \$10,000 from the general fund for any one or more of the purposes mentioned or referred to in Section 9887, General Code, and also that the

provision of that section requiring submission to the electors of the question of appropriations and expenditures, refers only to those appropriations and expenditures which the commissioners contemplate making outside of or beyond the \$10,000 limitation. In other words, the aggregate amount, \$10,000, which the commissioners may appropriate without the approval of the electors, is separate from and is not to be counted or included as a part of the funds that may be raised under a special voted levy, especially when the proceeds of the voted levy are to be used for a purpose other than those for which the unvoted funds were appropriated.

You are therefore advised that the county commissioners of Pickaway county are authorized by Section 9887, General Code, to appropriate from the general fund not to exceed in the aggregate the sum of \$10,000 during the year 1945, for the purposes of constructing a race track and erecting certain small buildings on the county fairgrounds, in addition to the proceeds of a special one mill tax levy approved by the electors under that section at the general election in 1944, for the purpose of erecting a coliseum.

Respectfully,

HUGH S. JENKINS

Attorney General