

1246.

CHIEF PROBATION OFFICER — EXPENSES — COUNTY
COMMISSIONERS * SECTION 1639-18 AND 1639-57, OHIO
GENERAL CODE.

SYLLABUS:

The provisions of Sections 1639-18 and 1639-57, General Code, are mandatory insofar as they refer to appropriations for the compensation of a chief probation officer and the administrative expenses of the court in connection with the purposes of the statute in question. The county commissioners, therefore, must appropriate money for a chief probation officer and other expenses authorized under this act from the date it becomes effective.

COLUMBUS, OHIO, September 28, 1937.

HON. MARVIN A. KELLY, *Prosecuting Attorney, Portsmouth, Ohio.*

DEAR SIR: This will acknowledge the receipt of your recent communication requesting an opinion as follows:

“General Code, Section 1639-18, effective August 19, 1937, provides for the appointment of a chief probation officer. Must the County Commissioners appropriate under this statute money to pay such probation officer, along with the other expenses, before the coming year?”

Section 1639-18, of the General Code, to which your letter makes reference reads:

“The judge may appoint a chief probation officer, and as many probation officers, stenographers, bailiffs and other employees as may be necessary. Such appointees shall receive such compensation and expenses as the judge shall determine, and shall serve during the pleasure of the judge.

The compensation of the probation officers and other employes shall be paid in semi-monthly installments by the county treasurer from the county treasury, upon the warrant of the county auditor, certified to by the judge of the court. * * * *”

This statute, it can be seen, expressly authorizes the court to appoint probation officers and to fix their compensation. Further

provisions bearing upon the matter are set forth in Section 1639-57. General Code, which reads as follows:

“It is hereby made the duty of the county commissionerse to appropriate such sum of money each year as will meet all the administrative expense of the court exercising the powers and jurisdiction conferred in this chapter, including reasonable expenses of the judge and probation officers in attending conferences at which juvenile or welfare problems are discussed, and such sum each year as will provide for the care, maintenance, education and support of neglected, dependent and delinquent children, other than children entitled to aid under the aid to dependent children law, section 1359-31 et seq., G. C., and for necessary orthopedic, surgical and medical treatment, and special care as may be authorized by such court, for any neglected, dependent or delinquent children, as herein provided. All disbursements from such appropriations shall be upon specifically itemized vouchers, certified to by the judge of the court.”

These two sections being parts of the same act must be construed and read together since they directly refer to each other. Section 1639-57, supra, creates in clear and mandatory language, a duty upon the part of the county commissioners to make that appropriation which is necessary to put into effect the provisions of Section 1639-18, supra.

A similar situation to the one before us may be found in the case of *State, ex rel. vs. Thomas* (35 O. App. 250) wherein the court held that when a Judge appointed a constable and criminal bailiff and fixed their compensation under authority expressly conferred in Sections of the General Code, such an act is equivalent to and on parity with a fixing by the law, and in such a case the county commissioners are bound to accept the judge's act in the same manner as if the appointment and compensation had been fixed by statutory enactment.

In specific answer to your question, it is my opinion that the provisions of Sections 1639-18 and 1639-57, supra, are mandatory insofar as they refer to appropriations for the compensation of a chief probation officer and the administrative expenses of the court in connection with the purposes of the statute in question. The county commissioners, therefore, must appropriate money for a chief probation officer and

other expenses authorized under this act from the date it becomes effective.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1247.

EXPENSES OF AUDITING ACCOUNTS OF MUNICIPALLY OWNED PUBLIC UTILITIES—TRANSFER FROM GENERAL FUND TO UTILITY FUND.

SYLLABUS:

When the expenses pertaining to the inspection and auditing of the accounts of a municipally owned public utility by the Bureau of Inspection and Supervision of Public Offices under authority of Section 288, General Code, have been paid out of the general fund of such municipality, such general fund may be reimbursed in the amount so paid from the public utility fund by transfer under authority of Sections 5625-13a, et seq., General Code.

COLUMBUS, OHIO, September 28, 1937.

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

GENTLEMEN: Your letter of recent date is as follows:

“In 1931 the Attorney General’s Department informally held that the actual cost of the Bureau’s audit of accounts of municipally owned utilities might be charged to such utilities, and we have so held since that time.

We are now presenting for your formal opinion, the following question:

May a municipality’s General Fund be reimbursed from its Public Utility Funds (water and electric light) for the cost of an examination conducted by the Bureau of Inspection and Supervision of Public Offices?”

Water rentals derived from the operation of a municipally owned waterworks are expressly authorized by Section 3958, General Code, to be used “for the purpose of paying the expenses of conducting and managing the waterworks.” It is my judgment accordingly that