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SYLLABUS:

1. The cost of the warrants, as well as the cost of the envelopes in which they are mailed, must be charged to the county auditor's appropriation.
2. Any enclosures mailed with the county auditor's warrants should be approved by the county auditor.

Columbus, Ohio, October 4, 1963

Hon. Roger W. Tracy
Auditor of State
State House
Columbus, Ohio

Dear Sir:

I am in receipt of your letter of September 12, 1963, which reads as follows:

"As a matter of convenience the welfare department in one of the counties of the State of Ohio, processes all warrants for allowances in the A.D.C., A.B. and A.F.D. programs as well as for poor relief. A separate series of warrants is used for this purpose, and they are processed on IBM equipment at the offices of the welfare department. Upon completion they are sent to the county auditor's office for signature, then are returned to the welfare department for mailing.

"The following questions have been raised by one of our state examiners relative to warrants issued by the county auditor.

"(1) Is the cost of the warrants, as well as the cost of the envelopes in which they are mailed, a proper charge to county auditor's appropriations, or to the department for which they are issued (such as the welfare department)?

"(2) Should any enclosures mailed with county auditor's warrants be approved by the county auditor?

"Your opinion is respectfully requested concerning the above questions which are of state wide concern since this procedure occurs in a number of the larger counties."

With reference to your first inquiry, there is no specific statute which provides that the cost of the issuance of the warrants shall

be charged to the appropriation of the county auditor. However, Section 319.16, Revised Code, commands the county auditor to issue warrants on the county treasurer. It reads, in part, as follows:

“Except as to moneys due the state which shall be paid out upon the warrant of the auditor of state, the county auditor shall issue warrants on the county treasurer for all moneys payable from the county treasury, upon presentation of the proper order of voucher for the moneys, and keep a record of all such warrants showing the number, date of issue, amount for which drawn, in whose favor, for what purpose, and on what fund. * * *”

Since the county auditor has the duty of issuing warrants, it is reasonable to infer that his office shall be charged with the costs of such “issuance” because it is one of his operating expenses. A question arises, however, as to what constitutes “issuance.”

In Opinion No. 1110, Opinions of the Attorney General for 1939, page 1605, it was held that “a state warrant does not become ‘issued’ until delivered by the Auditor to the person lawfully authorized to receive it.” And in Opinion No. 2525, Opinions of the Attorney General for 1940, page 690, it was decided that “a county auditor’s warrant is not issued until delivered to the payee or agent entitled to receive it.”

It is therefore clear that the issuance of a warrant consists not only of the drawing of the instrument, but the delivery thereof as well. However, a further question arises. Is the county auditor required to deliver the warrants to the named payees or to the department of welfare?

The answer to this question was indicated in an opinion by a former Attorney General. In Opinion No. 511, Opinions of the Attorney General for 1929, page 773, it was held that “when state warrants are drawn by the state auditor * * * and such warrants are lost before their delivery to the payee, or his agent, and without any fault on the part of the payee, the said payee is entitled to have new warrants drawn and delivered to him.” That opinion involved facts similar to those in our fact situation. There, warrants had been drawn by the state auditor and given to the director of public welfare. The warrants were stolen before the director sent them to the named payees. It was held that the warrants were not issued

in a legal sense and that the state auditor must draw new warrants and deliver them to the named payees or his agent.

Since the warrants are not "issued" by the county auditor even though put in the hands of the director of public welfare, it necessarily follows that the county auditor must deliver the warrants to the named payees or his agent to meet the statutory mandate of issuing warrants.

I am aware that Section 329.04, Revised Code, obligates the county departments of welfare to "administer" the welfare programs. However, I do not interpret this particular section as requiring the county departments of welfare to deliver warrants to the named payees.

I therefore conclude that since "issuance" involves the drawing of the warrants and the delivery of same to the named payee or his agent, the county auditor's appropriation is properly charged for the cost of the drawing of the warrants, as well as the cost of the envelopes in which they are mailed to the individual recipients. These charges are a part of the auditor's operating expenses.

You have asked secondly, whether any enclosures mailed with the county auditor's warrants should be approved by the auditor. It is clear that the county auditor must use due care in delivering the warrants. *State ex rel. Creager v. Billig*, 104 Ohio St., 380. Also, the auditor, in order to comply with the statutory mandate to "issue" warrants must deliver the warrants to the named payee or his agent. Therefore, the welfare department, in sending the warrants to the named payees, is acting as an agent of the county auditor to consummate delivery of the warrants to persons entitled to them. Since the welfare department is acting as agent for the auditor in delivering the warrants, it is clear that the welfare department is subject to control by the auditor in the delivery of same. It follows that any enclosures mailed with the county auditor's warrants should be approved by the county auditor.

Accordingly, in specific answer to the questions submitted, it is my opinion and you are advised:

1. The cost of the warrants, as well as the cost of the envelopes in which they are mailed, must be charged to the county auditor's appropriation.

2. Any enclosures mailed with the county auditor's warrants should be approved by the county auditor.

Respectfully,
WILLIAM B. SAXBE
Attorney General
