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MUNICIPALITY:

1. ARTICLE XVIII, SECTION 4, CONSTITUTION OF OHIO, GRANTS TO MUNICIPALITY THE RIGHT TO ACQURE, CONSTRUCT AND OPERATE ANY UTILITY—PRODUCT TO BE SUPPLIED TO MUNICIPALITY OR ITS INHABITANTS—LEGISLATURE HAS NO POWER TO IMPOSE RESTRICTIONS AND LIMITATIONS UPON THAT RIGHT.
2. MUNICIPALITY MAY PAY INTO GENERAL FUND FROM ITS WATER WORKS REVENUES, REASONABLE PORTION OF EXPENSE OF GENERAL ADMINISTRATIVE OFFICES AND DEPARTMENTS—THOSE WHICH CONTRIBUTE TO OPERATION OF WATER WORKS—PAYMENT NOT PROHIBITED BY SECTION 3959 G. C.
3. MUNICIPALITY MAY PAY INTO GENERAL FUND FROM REVENUES OF SEWAGE DISPOSAL PLANT REASONABLE PORTION OF EXPENSE OF GENERAL ADMINISTRATIVE OFFICES AND DEPARTMENTS — SECTION 3891-5 G. C.
4. REVENUES OF ELECTRIC LIGHT PLANT—COST OF OPERATION—EXPENSES OF GENERAL ADMINISTRATIVE OFFICES AND DEPARTMENTS.

SYLLABUS:

1. A municipality derives the right to acquire, construct and operate any utility, the product of which is to be supplied to the municipality or its inhabitants, from Section 4 of Article XVIII of the Constitution, and the legislature is without power to impose restrictions and limitations upon that right.

2. A municipality may lawfully pay into its general fund from the revenues of its water works as a part of the cost of operation of such utility, a reasonable portion of the expenses of the general administrative offices and departments of the municipality which in any way contribute to the operation of such water works, and nothing in Section 3959 of the General Code prohibits such payment, Opinions of the Attorney General, No. 1052 for 1937, No. 1525 for 1939, and first syllabus of No. 6769 for 1944, overruled.

3. A municipality may lawfully pay into its general fund from the revenues of its sewage disposal plant, as a part of the cost of operation of such utility, a reasonable portion of the expense of the general administrative offices and departments of the municipality which in any way contribute to the operation of such sewage disposal plant; and nothing in Section 3891-5, General Code, prohibits such payment.

4. A municipality may lawfully pay into its general fund from the revenues of its electric light plant, as a part of the cost of operation of such utility, a reasonable portion of the expenses of the general administrative offices and departments of the municipality which in any way contribute to the operation of such electric light plant.

Columbus, Ohio, June 17, 1952

Bureau of Inspection and Supervision of Public Offices
Columbus, Ohio

Gentlemen:

I have before me your communication requesting my opinion, and reading as follows:

"Enclosed herewith is a letter received from our City of C. Examiner, together with a copy of the so-called contract agreement No. 4146, dated October 15, 1946, and analysis of administrative expense for the year 1948 chargeable to the utility department.

"We are familiar with Attorney General's Opinion No. 6769 of 1944, relative to the unauthorized use of water funds to reimburse the general fund for certain administrative expenses. However, the policy adopted by the City of C. in pro-rating charges of general administrative expense to the electric light and sewage disposal utilities would also appear to be of doubtful legality in view of existing laws applicable thereto.

"The following questions are submitted for your consideration in connection with the use of municipal utility funds by the City of C. for general administrative expenses:

"1. Is it lawful for a municipality owning and operating a waterworks utility to authorize by ordinance or otherwise the use of water revenue funds to reimburse the general fund for general administrative expenses as indicated in the contract agreement No. 4146 herewith submitted?

"2. In view of the provisions and restrictions contained in Section 3891-5, General Code, is it lawful for a municipality owning and operating a sewage disposal utility to authorize by ordinance or otherwise the use of sewer rental revenue funds to reimburse the general fund for general administrative expenses as indicated in contract agreement No. 4146 previously referred to?

"3. Is it lawful for a municipality owning and operating an electric light utility to authorize by ordinance or other-

wise the use of electric light revenue funds to reimburse the general fund for administrative expenses as indicated by the contract agreement No. 4146 previously referred to?"

The contract referred to reads as follows:

"Contract or Agreement No. 4146, October 15, 1946,

"For the purpose of billing Administration Expense of the General Fund to the Utilities Department the following items are agreed to, as activities of the General Fund to be shared with the Utilities Department:

"1. Cost of Printing the City Record.

"2. Expense of the Mayor's Office (Less Mayor's salary.)

"3. Expense of the Civil Service Commission.

"4. Expense of the Law Department (Less Special Services, Judgments and Criminal Branch.)

"5. Expense of the Finance General Administration.

"6. Expense of the Division of Accounts (Less salaries of 5 employes not engaged in Utility functions.)

"7. Expense of the Division of the Treasury.

"8. Expense of the Division of Purchases and Supplies.

"The agreed formula for the distribution of the cost of printing the City Record, and the Law Department (Less special services, judgments and criminal branch) is 22% of the total net cost. The distribution of the cost to the Utilities Department is 50% to the Water Division, 15% to the Sewage Division and 35% to the Light Division.

"The Civil Service Commission expense is distributed to the Utilities Department on the basis of average number of employes in each division to the average number of city employes.

"The total cost of operating the office of the Mayor (Less Mayor's Salary), Finance General Administration, Division of Accounts (Less salaries of 5 employes not engaged in Utility Functions), Division of the Treasury, and the Division of Purchases and Supplies is to be distributed on the basis of number of requisitions issued by each division, to the total number of city requisitions."

Here is plainly an attempt to authorize the payment directly out of the charges collected for the several utility services, to the General Fund of the City, of certain amounts representing the agreed share of the costs

of the general administration of the city government chargeable to the several municipally owned public utilities.

The provisions of the charter of the city in question providing for the appointment of a director of public utilities and setting forth his powers are not before me, but I shall assume for the purpose of this opinion that they are the same as those conferred by the general law on the director of public service in cities generally. Section 3956, General Code, provides as follows:

> "The director of public service shall manage, conduct and control the water works, furnish supplies of water, *collect water rents,* and appoint necessary officers and agents."
>
> (Emphasis added.)

Section 4326, General Code, provides in part:

> "The director of public service shall manage municipal water, lighting, heating, power, garbage and other undertakings of the city, parks, baths, playgrounds, market houses, cemeteries, crematories, sewage disposal plants and farms, and shall make and preserve surveys, maps, plans, drawings and estimates. * * *"

Relative to charges for water, Section 3958, General Code, provides:

> "For the purpose of paying the expenses of conducting and managing the water works, *such director may assess* and collect from time to time a water rent of sufficient amount in such manner as he deems most equitable upon all tenements and premises supplied with water. * * *" (Emphasis added.)

It is to be observed that as to charges for water, the power to fix and collect them is lodged in the director of public service. As to charges for sewer treatment, the rates are, under the provisions of Section 3891-1, General Code, to be fixed by the council. As to charges for electricity, I find no specific provision in the statutes, that duty apparently being left to the director under the broad power to "manage" conferred by Section 4326 supra.

As to the disposition of the revenues arising from municipally owned water works, I direct attention to Section 3959, General Code, which, so far as pertinent reads as follows:

> "After paying the expenses of conducting and managing the water works, any surplus therefrom *may* be applied to the repairs, enlargements or extension of the works or of the reservoirs, the

payment of the interest of any loan made for their construction or for the creation of a sinking fund for the liquidation of the debt. Provided, however, that in those cities where water works and sewerage systems are conducted as a single unit under one operating management a sum not to exceed ten per centum of the gross revenue of the water works for the preceding year may be taken from any surplus remaining after all of the preceding purposes have been cared for and may be used for the payment of the cost of maintenance, operation and repair of the sewerage system and sewage pumping, treatment and disposal works and for the enlargement or replacement of the same, provided, however, that each year a sum equal to five per centum of the gross revenue of the preceding year be first retained from said surplus as a reserve for water works purposes.

"The amount *authorized to be levied and assessed for water works purposes* shall be applied by the council to the creation of the sinking fund for the payment of the indebtedness incurred for the construction and extension of water works and *for no other purpose whatever.*" (Emphasis added.)

It appears to me that the underlying question which we have to consider is whether a portion of the general overhead expenses of the city government is properly chargeable to the water department. It is to be observed that the "expenses of conducting and managing the water works" is given priority by the statute in directing the disposition of the receipts from water rent. Is the expense of conducting and managing to be confined to the salary and expense of the superintendent and his assistants and employes? What about a portion of the salary of the director of public service who is specifically charged with the duty to "manage municipal water * * * undertakings." Although he is not engaged exclusively in that work and has many other duties, and although his salary is payable, like other officers, from the general funds of the municipality, can we escape the conclusion that he renders a substantial service to the water department, for which either the consumers of water or the taxpayers must pay? And does not the same conclusion result, though in diminishing degree, when we consider the duties of the mayor. The statute, Section 4262, General Code, says:

"The mayor shall supervise the conduct of all the officers of the corporation, inquire into and examine the grounds of all reasonable complaints against any of them, and cause all their violations or neglect of duty to be promptly punished or reported to the proper authority for correction."

In like manner, the other officers of every city and presumably all of the officers mentioned in the submitted contract, have certain duties to perform which inure to the benefit of the water department, and which result in some costs which someone must pay.

It may well be argued that all these indirect expenses which enter into the cost of producing a water supply and furnishing it to customers are proper elements to be considered in arriving at a fair rate to be charged water users. It must, however, be kept in mind that the purpose and use of a municipal water plant are not confined to furnishing water to consumers. A very large share of such purpose and use is the furnishing of water for purposes in which the consumer has no special interest, such as fire protection, street flushing, etc. It may well be claimed that the general services rendered by the several general offices of the city government are referable to those general purposes. Of course, it could not be claimed that water consumers must be charged a rate that would cover those costs.

There has been a series of holdings by Attorneys General which, if followed, would lead to a negative answer to your first question, relative to the payment from water revenues of a stipulated percentage of the general overhead cost of the city's administration. In Opinion No. 1052, Opinions of the Attorney General for 1937, page 1835, it was held:

> "A city may not by ordinance or otherwise, divert waterworks funds for the purpose of compensating such city for services rendered to the waterworks department by officers or employes of the city who are compensated from the general fund.

This opinion, as have several, subsequently rendered, relied largely upon the case of Cincinnati v. Roettger, 105 Ohio St., 145, decided in 1922. It was held in that case:

> "1. Section 3959, General Code, is constitutional and operates as a valid limitation upon the uses and purposes for which revenues derived from municipally owned waterworks may be applied. By virtue of the provisions of that section, surplus revenues derived from water rents may be applied only to repairs, enlargement or extension of the works, or of the reservoirs, and to the payment of the interest of any loan made for their construction or for the creation of a sinking fund for the liquidation of the debt."

Further reliance was placed on the case of Realty Co. v. Cleveland, 128 Ohio St., 583, decided in 1934, where it was held:

> "1. The provisions of Section 3959, General Code, prescribing and limiting the use of funds created by water rentals, prevent the diversion thereof to a use for any purpose other than therein enumerated. (City of Cincinnati v. Roettinger, a Taxpayer, 105 Ohio St., 145, approved and followed.)"

At the time that decision was rendered, Section 3959 did not contain the provision authorizing a portion of the water revenues to be used for sewerage disposal purposes. The court, in the opinion said:

> "The mere *ipse dixit* of the city council that the disposal of sewage and the purification and distribution of water to users are parts of a single process cannot be conclusive upon the question and thus effect a release from the clear inhibition of the statute.
>
> "If this evasion be permitted, there is no length to which council may not go to compel water users to pay the expense of carrying on other city functions which may be remotely connected with sewage disposal; council might even extend it to maintenance of other departments of government—all upon the theory that such departments are in some respects connected with the function of supplying pure water to the inhabitants of the city."

The Attorney General followed with this comment:

> "Having in mind the principle that water users shall not be compelled to pay the expenses of carrying on other city functions, I address myself to the question of whether or not the ordinance here under consideration providing for payment, presumably to the general fund of the municipality of $10,000 per year, from the waterworks fund, may be properly construed as part of 'the expenses of conducting and managing the waterworks' as the phrase is used in Section 3958, supra. I assume that the chief basis for this charge rests upon the contention that the members of the city commission, the city manager, the city treasurer, the city auditor, the city solicitor, and other municipal officers and employes are required to expend part of their time in rendering services to the waterworks and hence the municipality which in paying their salaries or compensation is entitled to be reimbursed for such services.
>
> "There is no question but that any officer or employe who devotes full time to rendering services for the waterworks may be compensated from the proceeds of water rentals nor is there any doubt but what anyone specially employed on a per diem

> basis or otherwise may be so compensated. There is, however, in my judgment a decided distinction to be drawn between the power to so expend waterworks revenues and the power to reimburse a municipality on account of part time service being rendered to the waterworks by employes or officers of the municipality who are compensated out of the general fund."

I am unable to see any point to the argument based on the fact that the salaries and expenses of these general officers are payable out of the general fund. The proposition before us is to have the water department pay an agreed sum into that fund.

A somewhat similar line of reasoning is found in the case of Longworth v. Cincinnati, 34 Ohio St., 101. The case related to a different matter, to wit, the elements that may be included in determining the cost of an improvement which may be assessed against benefited property. The court held:

> "Where the surveying and engineering of such improvement were performed by the chief engineer of the city and his assistants, who were officers appointed for a definite period, at a fixed salary, which the law required to be paid out of the general fund of the city, the reasonable cost to the city, of such surveying and engineering, can not be ascertained and assessed upon the abutting property, as a necessary expenditure for the improvement."

The decision turned on the construction of a statute which enumerated the matters which may be included in such cost, mentioning among others "the expense of the preliminary and other surveys," and ending with the words "and any other necessary expenditure." The court in the course of the opinion, used the following language:

> "It is sufficient to say, that when the salaries of these engineers were paid from the general funds of the city, as required by law, that was the end of it, unless there was some law expressly authorizing the charge and assessment that was made in this case, for the purpose of reimbursing the city for the amount so paid; and, inasmuch as there is no such law, the courts did not err in holding that the charge was improperly included in the assessment."

It may be observed that the court was here acting on the principle that was then well established which confined municipal powers to those explicitly granted by the legislature and the court was construing a

statute which dealt with the power given by the statute to levy special assessments.

In Opinion No. 1525, Opinions of the Attorney General for 1939, page 2248, it was held:

> "A city which operates a municipal waterworks, may not use the funds derived from the operation thereof in payment of a portion of the salaries of the mayor, director of law, director of finance of such city, and may not use such funds in payment of the operating expense of such municipal departments. (2 O.A.G., 1937, p. 1835 approved.)"

In the course of that opinion it was said:

> "* * * the salaries of the salaried officers of the city, such as mayor, law director and director of finance, and the expense of the operation of their departments, are a part of the general operation expense of the city rather than of the municipal waterworks, even though some portion of their efforts may be expended in promoting the welfare of such utility, and are payable only from the general fund of the city."

In a later opinion by the same Attorney General, No. 6769, Opinions of the Attorney General for 1944, page 151, it was held:

> "1. Under the restrictions imposed by Section 3959, General Code, a municipality may not through ordinance or resolution of council require that the water revenue fund of such municipality be charged an annual sum of money representing the cost of general overhead service performed by the general officers, such as the law department, finance department, etc., and including the probable cost of rental of office space, heat, light, etc."

A reading of that opinion shows that the then Attorney General bowed very reluctantly to the case of Roettinger v. Cincinnati, supra. After a careful examination of the facts involved and the relief granted in that case, I am of the opinion that its importance has been overestimated and that its principle is not controlling in the consideration of the question now before us. The case arose by reason of the passage of an ordinance of the City of Cincinnati. That ordinance provided in part:

> "Section 110-2: The Director of Public Service shall on the first of each month ascertain and determine the amount necessary for the succeeding month to meet the interest and sinking fund charges on all outstanding bonds, loans or other indebtedness

that may exist, due to the construction of the water works and commonly known as 'Water Works Bonds or Obligations'; and, also the expenses necessary for conducting, managing and operating the water works, including the amount necessary for the repairs, enlargement or extension of the water works system, including the reservoirs, and shall certify said amount to the City Auditor and the City Treasurer.

"All moneys in excess of that required for the hereinbefore mentioned purpose shall be deemed a surplus, and shall be used for general municipal purposes, to-wit: fixed charges and current expenses of the municipality. * * *"

The action was by a taxpayer, to enjoin the payment of such surplus, and the court simply sustained the lower courts in granting such injunction. The question of what general expenses of the city government, if any, might be included in the "expenses necessary for conducting, managing and operating the water works" did not enter into the case. The court based its decision on the theory that any surplus or profit made on the sale of water *became a tax* which the legislature, in enacting Section 3959 supra, had forbidden; a theory which, as I shall show, was completely exploded in the case of Niles v. Union Ice Company, 133 Ohio St., p. 169. The question you have submitted and which I am here considering, does not in any way involve the disposition of a "surplus," but only what costs are properly to be included in "operating expense."

Accordingly, I feel that we may dismiss from our consideration the Roettinger case and the cases which approved it as having no bearing on the questions before us.

I direct your attention to another provision of the law, which seems to me to have far more force that has ever been given to it by any adjudications or opinions which I am able to find. Section 280, General Code, provides:

"All service rendered and property transferred from one institution, department, improvement, or public service industry, to another, shall be paid for at its full value. No institution, department, improvement, or public service industry, shall receive financial benefit from an appropriation made or fund created for the support of another. When an appropriation account is closed, an unexpended balance shall revert to the fund from which the appropriation was made."

In the 1944 Opinion, No. 6769, to which I have referred, it was held as disclosed by the second branch of the syllabus:

> "2. A municipality may, consistent with Section 3959, General Code, and pursuant to the provisions of Section 280, General Code, out of the revenues of its waterworks pay into the municipal treasury the reasonable value of office space and heat and light therefor, furnished to the water department by the city, such expenditures being a part of the necessary expense of conducting and managing the waterworks."

The then Attorney General evidently thought he was trespassing as far as he dared on the formidable Roettinger case, in holding that water rents could be used to pay to the general fund for office space and other facilities that were furnished to the water department by the city. In my opinion, he might properly have gone farther, and included a fair share of other services which the city furnished.

The language of Section 280 is certainly simple and direct. It is not in the least ambiguous. Its application is not limited to state departments. It is a part of the law relating to the examination of local subdivisions as well as state offices.

While I shall confine my opinion to the legal phases of the questions submitted, I cannot overlook certain equities which seem to me to underly the question as we seek to determine the principles governing the proper relation of the city government to its business or proprietary enterprises. We have on the one hand a group of citizens who for their own comfort and advantage purchase from the city a commodity which might as well be supplied by a private corporation. On the other hand, we have a group of taxpayers, who are not necessarily the same persons who are purchasing the commodity referred to, but who are required to support the general government of the city by the payment of taxes levied on their property. It would appear equitable that the rates charged to such purchasers should be sufficient at least to cover all elements of cost, so as not to impose on the taxpayers any part of the burden of paying the cost of the commodity. On the other hand, it might seem to follow that the purchasers of this commodity ought not to be charged a rate which would result in a profit, and thereby produce a subsidy for the taxpayers. I am not sure that this is a logical sequence. The Supreme Court has denied it. In the case of Niles v. Union Ice Corporation, 133 Ohio St.,

169, the court had before it the question of the right of a city to *transfer profits* arising from the operation of its light plant to the general fund, and the court held not only that it had such right, but also said very emphatically that it had the right to make a reasonable profit on its business enterprise. The first branch of the syllabus reads as follows:

> "The provisions of Section 5625-13a, General Code, relate to the transfer of funds of a political subdivision, whether tax derived or not, and include, in their authorization to transfer, funds derived from the maintenance and operation of an electric light and power system, but do not apply to waterworks funds by reason of the provisions of Section 3959, General Code."

In the course of the opinion it was said:

> "The rate charged in excess of cost is not a tax or in the nature of a tax, regardless of how the fund derived therefrom is ultimately used. A municipality, acting in a proprietary capacity, cannot impose taxes. While thus engaged, it is engaged in business but not in the business of government. A municipality may impose and collect taxes only when acting as an arm or agency of the state, but when engaged in business, it does not so act. A tax is a tribute levied for the support of government. 38 Ohio Jurisprudence, 714, Section 3. A rate charged for a public utility service or product is not a tax, but a price at which and for which the public utility service or product, is sold (27 Ruling Case Law, 1436, Section 52; 67 Corpus Juris, 1236, Section 784; Traville v. City of Sioux Falls, 59 S.D., 396, 240 N.W., 336) and the excess charged over and above cost as a profit, enters into and becomes a part of the price. Payment of a tax is an obligation imposed. Payment of a price for a utility product or service furnished by a municipality is voluntarily assumed. Payment of the one is involuntary (38 Ohio Jurisprudence, 716, Section 6); pay of the other entirely voluntary. The obligation in the one case arises by operation of law, while in the other it arises out of contract, express or implied. * * *"

Referring again to the equities as between the purchasers of water and the taxpayers, I cannot close my eyes to the well known fact that in many cities the water rents are fixed at an amount that covers not only the cost of furnishing water for private consumption, and provides the city with free water for fire protection, street flushing and other municipal uses, but also in many cases enables the city to grant free water to schools, hospitals and charitable institutions, which, but for such generous grant, would have to be paid for by taxation or contributions.

What has been said in regard to the water department and the use of its revenues, in paying a part of the city's overhead cost, will be equally applicable to the revenues arising from sales of electricity and to charges for sewage disposal. As to sewage disposal, Section 3891-5, General Code, provides as follows:

> "The funds received from the collection of sewer rentals shall be deposited weekly with the treasurer of the corporation. Money so deposited shall be kept as a separate and distinct fund and shall be known as the sewer fund. When appropriated by council, it shall be subject to the order of the director of public service of a city or board of trustees of public affairs of a village. Such director or board shall sign all orders drawn on the treasurer of the corporation against such fund. This fund shall be used for the payment of the cost of the management, maintenance, operation and repair of the sewerage system and sewage pumping, treatment and disposal works and any surplus in such fund may be used for the enlargement or replacement of the same and for the payment of the interest on any debt incurred for the construction of such sewerage system and sewage pumping, treatment and disposal works, and for the creation of a sinking fund for the payment of such debt, but shall not be used for the extension of a sewerage system to serve unsewered areas or for any other purpose whatsoever."

Here it will be noted, are provisions like those contained in Section 3959, supra, dealing with water charges, but even more stringent so far as "surplus" revenue is concerned. However, as already pointed out, we are not seeking to transfer surpluses as to any of the utilities in question, but only considering what are legitimate elements in the cost of operation.

As to the revenues from a light plant, we need have even less difficulty. In the light of the holding in the Niles case, even a surplus could be transferred to the general fund of the city, and if we are correct in our reasoning as to water revenue, we should have no difficulty in arriving at the conclusion that the light plant, also, should pay its proper share of the general overhead.

Something should be said in reference to the doctrine of "home rule" for municipalities as conferred by Article XVIII of the Constitution, adopted in 1912. While those sections of that article which deal with local government are hedged about with certain powers reserved to the

general assembly, there are no such reservations in those sections which deal with the acquisition and operation by municipalities of public utilities. As to these, the power granted by the 18th Amendment is *plenary and wholly beyond legislative interference.* Dravo Doyle v. Orville, 93 Ohio St., 236; Power Co. v. Steubenville, 99 Ohio St., 421; State ex rel. v. Weiler, 101 Ohio St., 123; Euclid v. Camp Wise Assn., 102 Ohio St., 207; Board of Education v. Columbus, 118 Ohio St., 295; Pfau v. Cincinnati, 142 Ohio St., 101. Typical of the expressions in all of those and other cases, is the syllabus in Board of Education v. Columbus, supra:

> "Municipalities derive the right to acquire, construct, own and operate utilities the product of which is to be supplied to the municipality or its inhabitants, from Section 4 of Article XVIII of the Constitution, *and the legislature is without power to impose restrictions or limitations on that right.*" (Emphasis added.)

Quoted with approval in Pfau v. Cincinnati, supra, and the court added:

> "Nor are these powers impliedly subject to the limitation contained in Section 3 of the same Article as to conflict with general laws."

I conclude, therefore, that in the absence of any constitutional limitations, municipalities acting reasonably and in good faith, are quite free to determine for themselves the elements of cost that enter into the operation of their utilities, and to apply the revenues arising from such operation in payment of such costs.

It is not within my province to say what is a reasonable allotment from the revenues of the utilities in question, as their proper share of the general overhead, nor do I express any opinion as to the reasonableness of the apportionment proposed in the schedule submitted. Such apportionment must be determined by the municipal authorities in the exercise of a sound discretion.

Accordingly, it is my opinion, and you are advised:

1. A municipality derives the right to acquire, construct and operate any utility, the product of which is to be supplied to the municipality or its inhabitants, from Section 4 of Article XVIII of the Constitution, and

the legislature is without power to impose restrictions and limitations upon that right.

2. A municipality may lawfully pay into its general fund from the revenues of its water works as a part of the cost of operation of such utility, a reasonable portion of the expenses of the general administrative offices and departments of the municipality which in any way contribute to the operation of such water works, and nothing in Section 3959 of the General Code prohibits such payment, Opinions of the Attorney General, No. 1052 for 1937, No. 1525 for 1939, and first syllabus of No. 6769, for 1944, overruled.

3. A municipality may lawfully pay into its general fund from the revenues of its sewage disposal plant, as a part of the cost of operation of such utility, a reasonable portion of the expense of the general administrative offices and departments of the municipality which in any way contribute to the operation of such sewage disposal plant, and nothing in Section 3891-5, General Code, prohibits such payment.

4. A municipality may lawfully pay into its general fund from the revenues of its electric light plant, as a part of the cost of operation of such utility, a reasonable portion of the expenses of the general administrative offices and departments of the municipality which in any way contribute to the operation of such electric light plant.

Respectfully,

C. WILLIAM O'NEILL
Attorney General