

4421.

POOR RELIEF—VILLAGE MAY CONTRACT WITH MUNICIPALITY FOR HOSPITAL CARE OF INDIGENT PERSONS—TOWNSHIP NOT VILLAGE SHOULD FURNISH POOR RELIEF—VILLAGE MAY FURNISH POOR RELIEF WHERE ITS CORPORATE LIMITS ARE IDENTICAL WITH TOWNSHIP.

*SYLLABUS:*

1. *A village may expend funds for hospital care of its indigent residents and may contract with a city in which is located a municipal hospital for the hospitalization of such indigent persons.*
2. *In the preparation of the budget for poor relief under the provisions of Amended Senate Bill No. 4, passed March 31, 1932, at the special session of the 89th General Assembly, the county commissioners may consider the necessities of a village within such county in allotting to the township in which such village is located its portion for poor relief, in so far as those necessities are to be taken care of by such township, but may not take into consideration the amount of money that will be expended by such village for hospitalization of the sick poor of such village.*
3. *Where the corporate limits of a village become identical with those of a township, the village may expend funds for poor relief as defined in sections 3476, et seq., General Code.*
4. *Where the corporate limits of a village are identical with those of a township, the county commissioners, subject to the approval of the state relief commission, may allot emergency relief funds to such village in preparing their budget for poor relief, under the provisions of Amended Senate Bill No. 4, and may transfer to such village a part of the gasoline and motor vehicle license taxes allocated to such county for poor relief purposes under the provisions of Amended Senate Bill No. 3, passed March 31, 1932.*

COLUMBUS, OHIO, June 15, 1932.

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

GENTLEMEN:—I acknowledge receipt of your recent communication in which you submit the following inquiries:

“We are submitting for your opinion certain questions relating to poor relief.

Question 1. May a village contract with a city in which is located a general hospital, for the hospitalization of indigent persons who reside in the village, and may a village expend public funds for hospital care of indigent residents?

Question 2. In the preparation of the budget under the provisions of S. B. No. 4 passed by the 89th General Assembly at its Special Session held March 29th, 1932, may the county commissioners consider the necessities of a particular village in allotting to a township its portion for poor relief where such village has contracted for hospitalization of indigent residents of the village?

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Question 3. When the corporate limits of a village become identical with those of a township, may the village expend funds for poor relief as defined in Sections 3476 to 3494, General Code?

Question 4. In the preparation of the budget under the provisions of S. B. No. 4, passed by the 89th General Assembly at its Special Session held March 29th, 1932, may the county commissioners allot funds to a village for poor relief purposes, when the corporate limits of such village are identical with those of the township?

Question 5. When the corporate limits of a village are identical with those of a township, is the village entitled to allocate gasoline tax and automobile license funds for poor relief purposes, with the approval of the State Relief Commission under the terms of S. B. No. 3, passed March 31st, 1932?

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Your inquiries will be discussed in the above order.

1. Section 3480, General Code, reads as follows:

"When a person in a township or municipal corporation requires public relief, or the services of a physician or surgeon, complaint thereof shall be forthwith made by a person having knowledge of the fact to the township trustees, or proper municipal officer. If medical services are required, and no physician or surgeon is regularly employed by contract to furnish medical attendance to such poor, the physician called or attending shall immediately notify such trustees or officer, in writing, that he is attending such person, and thereupon the township or municipal corporation shall be liable for relief and services thereafter rendered such person, in such amount as such trustees or proper officers determine to be just and reasonable. If such notice be not given within three days after such relief is afforded or services begin, the township or municipal corporation shall be liable only for relief or services rendered after notice has been given. Such trustees or officer, at any time may order the discontinuance of such services, and shall not be liable for services or relief thereafter rendered."

Section 3490, General Code, provides that the trustees of a township or proper officers of a municipal corporation may contract with physicians to furnish medical care and medicines necessary for the persons who come under their charge under the poor laws.

Section 3480-1, General Code, provides a manner of furnishing medical services and hospital care in cases other than contagious to persons having a legal settlement in a municipality or township other than that in which the service is rendered, and provides the method of charging back payment for such services to the municipality or township in which such persons have a legal settlement.

The duty of furnishing the public support and relief provided for in section 3476, General Code, is placed upon townships, cities and counties. As this section mentions cities and not municipal corporations, villages are excluded, and this office has repeatedly held that it is the duty of the township in which a village is located, and not of such village, to afford the poor relief provided for by this section to residents of such village. On the other hand, the statutes dealing with medical relief use the terms "municipal corporations" and "municipalities". These terms include both cities and villages. Villages also are given the right to construct and maintain hospitals. Sections 3646 and 4356, General Code.

Section 4021, General Code, provides for the levy of a tax by a municipality and payment thereof to a private corporation or association which maintains and

furnishes a free public hospital for the benefit of the inhabitants of the municipality or not free except to such inhabitants as in the opinion of the hospital trustees are unable to pay, such payment to be as and for compensation for the use and maintenance of such hospital. Section 3621, General Code, gives municipalities the power to provide for the rent and compensation for the use of any existing free public hospital established and managed by a private corporation or association organized for that purpose.

In view of these statutory provisions, I am of the opinion that a village may expend public funds for hospital care of its indigent inhabitants who need such service. Charges for services afforded by a hospital are as much a proper item of medical relief as any other charges. I find no express statutory authority for a village to contract with a city for the hospitalization of its indigent inhabitants, but as villages may afford medical relief, I am of the view that where a village has no hospital facilities it may make such arrangement with a city having a hospital in the absence of any statutory inhibition.

2. Section 9 of Amended Senate Bill No. 4, passed March 31, 1932, at the special session of the 89th General Assembly, reads in part as follows:

“No disbursement of any part of the emergency relief fund shall be made by the county commissioners or the council or other legislative body of any city of any county until the budget of such county or city for relief expenditures has been approved by the state relief commission. At any time after such approval and in accordance therewith and prior to the first day of March, 1933, the county commissioners of any county shall, from time to time, distribute such portion of said fund to any or all of the cities (whether charter cities or otherwise) and townships of such county, according to their relative needs for poor relief as determined by such county and as set out in such approved budget; such moneys so distributed to any city or township shall be expended for poor relief in such city or township including the renting of land and the purchase of seeds for gardening for the unemployed, and for no other purpose.”

There is no provision in this act for the distribution of any part of the emergency relief fund to villages. In preparing their budget for relief expenditures, the county commissioners may take into consideration the necessities of a village in allotting to a township in which such village is located its portion of such fund, in so far as those necessities are to be taken care of by such township itself; that is, such relief that the township expects to afford to inhabitants of such village at the expense of such township may properly be considered by the county commissioners. However, I know of no authority by which a township can turn over any of the poor relief money received by it to a village to be expended by such village for medical relief.

I am of the view, therefore, that the county commissioners in making an allotment of such funds to a township can not consider the amount of money that will be expended by a village within such township for hospitalization of the sick poor of such village.

3. Section 3512, General Code, reads as follows:

“When the corporate limits of a city or village become identical with those of a township, all township offices shall be abolished, and the duties thereof shall thereafter be performed by the corresponding officers of the city or village, except that justices of the peace and constables

shall continue the exercise of their functions under municipal ordinances providing offices, regulating the disposition of their fees, their compensation, clerks and other officers and employes. Such justices and constables shall be elected at municipal elections. All property, moneys, credits, books, records and documents of such township shall be delivered to the council of such city or village. All rights, interests or claims in favor of or against the township may be enforced by or against the corporation."

When the corporate limits of a village become identical with those of a township, there are no longer township trustees to administer poor relief, and under section 3512, those duties may be performed by the corresponding officers of the village which would be the village council, and in such case the village may expend funds for poor relief. Reports of the Attorney General, 1911-12, Vol. I, page 250. Opinions of the Attorney General for 1917, Vol. I, page 138; for 1928, Vol. I, page 240.

4 and 5. Section 2 of Amended Senate Bill No. 3, passed at the special session of the 89th General Assembly March 31, 1932, reads as follows:

"At any time prior to the first day of March, 1933, the county commissioners of any county may, upon approval of the state relief commission, transfer to cities or townships in such county, all or any part of the proceeds of the gasoline and motor vehicle license taxes hereafter collected and allocated under existing laws to the county, such funds to be used for poor relief in the subdivision to which they are allocated and for no other purpose."

Inasmuch as a village, whose boundaries have become identical with those of a township, takes the place of such township and has all the rights and duties with respect to administering poor relief as a township does, I am of the opinion that subject to the approval of the state relief commission the county commissioners may allot emergency relief funds to such village in preparing their budget for poor relief under the provisions of Amended Senate Bill No. 4, and may transfer to such village a part of the gasoline and motor vehicle license taxes allocated to such county for poor relief purposes under the provisions of Amended Senate Bill No. 3.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

4422.

LIBRARY FUND—UNEXPENDED BALANCE—MAY BE TRANSFERRED TO GENERAL FUND WHERE NOT REQUIRED FOR SINKING OR BOND RETIREMENT FUNDS.

**SYLLABUS:**

*The unexpended balance in a special tax levy fund of a subdivision may be transferred to the subdivision's general fund, provided such money is not required to meet the obligations payable from the sinking fund or bond retirement fund*