

4824.

POOR RELIEF—COUNTY COMMISSIONERS AUTHORIZED  
UNDER CAREY ACT TO DISTRIBUTE PROCEEDS OF  
SALE OF BONDS TO CITIES AND TOWNSHIPS ACCORD-  
ING TO NEEDS.

*SYLLABUS:*

*Section 7 of the Carey Act (House Bill No. 501, 91st General Assembly, 116 O. L. 571) gives express authority to the County Commissioners, after the budget of such county for poor relief expenditures has been approved by the County Commissioners, to distribute the proceeds of the sale of any bonds or notes issued under Section 2 or Section 5 of such Act to any or all of the cities and townships of such county, according to their relative needs for poor relief, as determined by the county and as set out in the approved budget.*

COLUMBUS, OHIO, October 23, 1935.

HON. PAUL A. FLYNN, *Prosecuting Attorney, Tiffin, Ohio.*

DEAR SIR:—I am in receipt of your communication, which reads as follows:

“The County Commissioners of this county are desirous of having your opinion upon the matter of the handling of relief funds for the care of unemployables under the new law.

They would like to know whether they must expend, through themselves or their agents, the relief money which will be available or whether it might be distributed to the trustees of each township and the proper officials of each municipality for such officials to administer as they see best, thereby relieving the Commissioners from the direct administration of relief.

If the Commissioners may divide the money among the various subdivisions for administration by the proper officials, they would like to know whether it should be allocated in proportion to the tax valuations of each political subdivision or in accordance with the demands of each subdivision, or whether they may arbitrarily divide it equally between townships and cities.”

By the “new law”, I assume you are referring to House Bill 501, enacted in the regular session of the 91st General Assembly and commonly designated the “Carey Act”. I am also in receipt of information that the Poor Relief funds referred to in your inquiry, are proceeds of bond issues for poor relief purposes.

Under Section 2 of this Act provision is made for the borrowing of money for emergency poor relief within the county by the issuance of negotiable bonds or notes, by the County Commissioners in an amount to be approved by the Tax Commission of Ohio. Such issue of bonds and notes are in anticipation of the funds to be allocated to such county from public utility excise taxes levied by Sections 5474, 5475, 5483, 5485, 5486, 5487, 5487-1 and 5491 of the General Code.

Section 5 of the Carey Act provides that whenever in the years 1935 or 1936 the County Commissioners find that the County has issued all the bonds which it is authorized to issue under Section 2 of the Act, and such money has been expended for poor relief, or allocated for poor relief, and that additional funds are necessary for poor relief prior to December 31, 1936, and if the Tax Commission finds that no other means exists to provide such funds, except by the issuance of bonds, "the County Commissioners of any County, or the council or other legislative body, of any city, may provide, by resolution, for the issue of bonds of such county or city, in an amount not exceeding in the aggregate, one-fifth of one per cent of the general tax list and duplicate of such county or city".

Section 6 provides that "*The proceeds of the sale of any such bonds or notes, heretofore or hereafter issued under section 2 or section 5 of this act by any county, shall be placed in a special fund to be denominated the 'emergency relief fund', \* \* \**"

Bearing in mind that the proceeds of bonds and notes, issued under Section 2 or Section 5 of the Carey Act, are placed in a special fund denominated the "emergency relief fund", Section 7 of the Carey Act serves to answer the question propounded by your inquiry. That section provides *inter alia*:

"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 or any county until the budget of such county or city for relief expenditures has been approved by the county commissioners. At any time after such approval and in accordance therewith and prior to the thirty-first day of December, 1936, 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. \* \* \**" (Italics the writer's).

After the budget of a county for relief expenditures has been approved by the County Commissioners, Section 7, quoted supra, expressly authorizes the County Commissioners to distribute such bond proceeds to the trustees of each township within the county and the proper officials of each city within the county. As to the method of Division, it expressly states that it must be "according to their relative needs for poor relief as determined by such county and as set out in such approved budget". Consequently, in specific answer to your inquiry, it is my opinion that Section 7 of the Carey Act gives express authority to the County Commissioners, after the budget of such county for poor relief expenditures has been approved by the County Commissioners, to distribute the proceeds of the sale of any bonds or notes issued under Section 2 or Section 5 of the Carey Act (116 O. L. 571) to any or all of the cities and townships of such county, according to their relative needs for poor relief, as determined by the county commissioners and as set out in the approved budget.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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4825.

OFFICES COMPATIBLE—JUSTICE OF PEACE AND CITY  
CIVIL SERVICE COMMISSIONER.

*SYLLABUS:*

*Compatibility of the offices of Justice of the Peace and city civil service commissioner discussed.*

COLUMBUS, OHIO, October 23, 1935.

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

GENTLEMEN:—This will acknowledge receipt of your request for my opinion which reads as follows:

"In former Attorney Generals' opinions, found on pages 284 of 1913, 2102 of 1917 and 1381 of 1933, it has been held that the offices of justice of the peace and mayor, of either a city or village, are compatible, but in none of these opinions was the question raised in an instance wherein the boundary lines of the township and municipality are identical.

Section 3512 G. C., provides that when the corporate limits of