

bonds purchased by you. These bonds comprise part of an issue of bonds for the purpose of purchasing sites and erecting and furnishing school buildings thereon, in the aggregate amount of \$155,000, dated August 1, 1919, and bearing interest at the rate of  $5\frac{1}{4}\%$  per annum.

From this examination, in the light of the law under authority of which the above bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute valid and legal obligations of said city school district.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1484.

POOR RELIEF FUNDS—BOARDS OF TOWNSHIP TRUSTEES—MAY TRANSFER SUCH FUNDS TO BOARD OF COUNTY COMMISSIONERS FOR POOR RELIEF—SEE SECTION 5625-13h G. C.—IF STATE DIRECTOR OF PUBLIC WELFARE APPROVES SUCH FUNDS AS “OBLIGATIONS FOR POOR RELIEF”—PROCEDURE TO MATCH STATE CONTRIBUTIONS—SEE SECTION 3391-11 G. C.—BOARD OF TOWNSHIP TRUSTEES HAS NO AUTHORITY TO LEVY TAX FOR 1940 FOR POOR RELIEF—NOT A TAX LEVYING AUTHORITY—SEE SECTION 3391 G. C.—SEE OPINIONS ATTORNEY GENERAL 1939, VOLUME II, PAGE 1653.

**SYLLABUS:**

1. *After the effective date of Sections 3391, 3391-1 to 3391-12, both inclusive, General Code, boards of township trustees may, under authority of Section 5625-13h, General Code, transfer poor relief funds in their custody to the board of county commissioners of the county within which such township lies, for poor relief purposes. (O. A. G. 1939, Volume II, page 1653, approved and followed.)*

2. *Expenditures for poor relief made by a board of county commissioners from funds transferred to it by a township for poor relief purposes, if of the type approved by the State Director of Public Welfare as “obligations for poor relief,” may under authority of Section 3391-11, General Code, be included in computing funds for matching state contributions.*

3. *A board of township trustees has no authority to include in its budget or levy a tax for the year 1940 for poor relief as that term is de-*

*fned in Section 3391, General Code, since it is not a tax levying authority for such purpose.*

COLUMBUS, OHIO, December 1, 1939.

HON. CARL W. RICH, *Prosecuting Attorney, Cincinnati, Ohio.*

DEAR SIR: I am in receipt of your request for opinion reading:

“Certain questions have arisen with regard to the application of Sections 3391 to 3391-12 and 5625-13h of the General Code of Ohio, which concern poor relief in the townships and the transfer of funds for payment therefor. Since these questions have state-wide importance we believe an opinion from your office with regard to them advisable. The questions are as follows:

1. Since the effective date of Sections 3391 to 3391-12 General Code, may the township trustees transfer funds, which had been appropriated in 1939 for poor relief purposes, to the County Commissioners to be spent by the County Commissioners for poor relief in the township transferring said fund?

2. If said funds appropriated in 1939 may be transferred, can this money be considered part of the incurred obligation of the local relief authority for matching purposes under Section 3391-11 of the General Code, providing same is used by the local relief authority for relief purposes in that township?

3. May the Township Trustees include in their budget for 1940 an item for poor relief in the township, or should the County Commissioners include this item in their budget and, if approved, appropriate money therefor in 1940?

4. Is there any procedure by which the Township Trustees can transfer money from the township funds to the County Commissioners in 1940 to be used by the County Commissioners for poor relief in the township transferring same?

5. If such a transfer is possible, can the transferred money be considered part of the incurred obligation of the local relief authority for the purposes of matching by the State Department of Public Welfare under Section 3391-11 of the General Code of Ohio?”

Under date of September 2, 1939, I rendered an opinion to the Prosecuting Attorney of Lucas County, which has been given number 1126, with which you are undoubtedly familiar, the syllabus of which reads as follows:

“1. Boards of township trustees are authorized by Section

5625-13h, General Code, to transfer any poor relief funds in their possession to the county for poor relief purposes.

2. The language of Section 5625-13h, General Code, is permissive and not mandatory. Such section does not require the board of township trustees to transfer to the county poor relief funds in its custody when such funds may otherwise be legally used.”

Section 5625-13h, General Code, which was quoted in full in such opinion, makes specific provisions for the transfer of such funds. Such opinion will answer the first, second and fourth of your inquiries.

It is fundamental that a board of township trustees may levy taxes for township purposes. From the language of Section 3391-1, General Code, you will note that since the enactment of House Bill No. 675 by the present General Assembly there are now two types of poor relief areas; the “county local relief area” and the city local relief areas, except when one or more city local relief areas combine for purposes of administration with the county local relief area. The county local relief area includes all of the geographical area of the county except that lying within the cities. It would include all the area within the township not located within cities. (Section 3391-1, General Code.) The territory outside of the city has been made a special taxing district for purposes of poor relief, of which the tax levying authority is the board of county commissioners. Section 3391-1, General Code, specifically provides:

“If the county local relief area is not coextensive with the county, it shall constitute a special taxing unit on the taxable property within which the county commissioners of the county shall have authority to levy a tax for poor relief and to the electors within which the county commissioners shall have authority to submit the question of a special levy outside of the ten mill limitation for such purpose in the manner provided by sections 5625-15 to 5625-18, both inclusive, of the General Code. The county treasurer shall be the treasurer of such county local relief area and all expenditures from the treasury of such county local relief area shall be governed by the appropriate provisions of law relative to the expenditure of moneys in the county treasury and by the provisions of this act.”

As I pointed out in my Opinion No. 948, rendered under date of July 27, 1939, the General Assembly, by the enactment of House Bill No. 675, has taken from boards of township trustees the powers and duties which it had theretofore granted to such boards with reference to the administration of poor relief, with the exception of hospitalization of indigents. Such boards, being creatures of the legislature, can possess

and exercise only such powers as have been granted them by the legislation creating the office and defining its duties and powers.

From the provisions of Section 3391-1, General Code, it is evident that the board of county commissioners is the only body possessing the authority to levy taxes for purposes of poor relief, other than for hospitalization services. Such being true, it is evident that the board of township trustees has no authority to levy taxes for poor relief, as that term is defined in Section 3391, General Code, for the year 1940; that taxes for such purpose must be levied by the board of county commissioners, except to the extent that a portion of the township territory may lie within a municipal poor relief area.

The provisions with reference to matching poor relief funds are contained in Section 3391-11, General Code, as follows:

“The payment by a local relief area of its obligations for poor relief lawfully incurred during the month, in an amount equal to the contribution to such local relief area by the state with respect to that month, or the delivery to the state director of a certificate by the fiscal officer of the local relief area that the amount of money required for the payment of such obligations has been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of the appropriate fund free from any previous encumbrance, as provided for by Section 5625-33 of the General Code, or that during the period July 1 to December 31, 1939, such local relief area has otherwise made expenditures for poor relief, encumbered any funds other than the proceeds of taxes earmarked for bond or note retirement in the process of distribution from the state or from other sources which have not been included in any certificate of estimated resources, shall be considered as the matching of the contribution by the state for such month for the purposes of this act, and such matching of contributions shall also be considered as the matching of state funds or state grants for poor relief, as referred to in Amended Substitute Senate Bill No. 40, passed May 22, 1939, and in Amended Senate Bill No. 4, passed May 17, 1939.”

When funds have been transferred to the county by a township by authority of Section 5625-13h, General Code, supra, they may be used for poor relief purposes within the area. If, after such transfer has been made, expenditures have been made therefrom in payment of the type of obligations which the Director of Public Welfare has, under authority of Section 3391-11, General Code, determined to be “obligations for poor relief,” such section expressly authorizes them to be considered for the purposes of matching state funds.

Specifically answering your inquiries, it is my opinion that:

1. After the effective date of Sections 3391, 3391-1 to 3391-12, both inclusive, General Code, boards of township trustees may, under authority of Section 5625-13h, General Code, transfer poor relief funds in their custody to the board of county commissioners of the county within which such township lies, for poor relief purposes. (O. A. G. 1939, Volume II, Page 1653, approved and followed.)

2. Expenditures for poor relief made by a board of county commissioners from funds transferred to it by a township for poor relief purposes, if of the type approved by the State Director of Public Welfare as "obligations for poor relief," may under authority of Section 3391-11, General Code, be included in computing funds for matching state contributions.

3. A board of township trustees has no authority to include in its budget or levy a tax for the year 1940 for poor relief as that term is defined in Section 3391, General Code, since it is not a tax levying authority for such purpose.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1485.

PARK DISTRICT—WHEN CREATED UNDER SECTIONS 2976-1 ET SEQ., G. C.—NO PROVISION TO CHARGE SUCH DISTRICT WITH BONDED INDEBTEDNESS COVERING INCLUDED TERRITORY LYING IN A SCHOOL DISTRICT OR DISTRICTS OR POLITICAL SUBDIVISIONS—NO WAY TO SECURE FUNDS FROM PARK DISTRICT TO PAY PROPORTIONATE SHARE OF SUCH BONDED INDEBTEDNESS.

**SYLLABUS:**

*When a park district is created in pursuance of Sections 2976-1 et seq. of the General Code of Ohio, and included therein is territory lying in a school district or school districts or political subdivisions having bonded indebtedness, no provision of law exists whereby the park district becomes charged with any portion of the said bonded indebtedness and no way exists under the law whereby the taxing authority or the bond issuing authority of any such subdivision may secure from the park commission for said park district, funds for the payment of a proportionate share or any part of the said bonded indebtedness.*