

OPINION NO. 87-008**Syllabus:**

1. 8 Ohio Admin. Code 5101:1-47-71(B)(3), which requires the county department of human services to ensure that a sponsoring agency does not assign participants in a workfare program under R.C. 5101.83 to electoral activities, precludes assignment of such participants to voter registration duties.

2. Participants in work-relief projects under R.C. 5101.21 may be assigned to voter registration duties by their sponsoring agency, and the county board of elections may direct the project participants in their volunteer registrar duties under R.C. 3503.11(B)(2).

To: Sherrod Brown, Secretary of State, Columbus, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, March 27, 1987

I have before me your request for my opinion regarding whether the participants in county welfare work programs may pursue voter registration activities in fulfillment of their work program responsibilities. You have set forth the issues to be considered as follows:

May the Secretary of State institute a program directed by county boards of elections using county general relief recipients as voluntary voter registrars under Ohio election law? The registration activities carried out by the general relief voter registrars placed with the local boards of elections would, in keeping with [R.C. 3503.14], occur on a non-partisan basis and the assignment would take place only if the recipients did so voluntarily.

As you note in your request letter, your question involves three programs established by different statutory provisions. Two of these programs provide for the employment of employable, able-bodied recipients of aid to dependent children (ADC) or poor relief benefits; these two programs are under the general administrative supervision of the Ohio Department of Human Services.¹ See R.C. 5101.21 (work-relief projects); R.C. 5101.83 (workfare program); notes 4 and 9, *infra*. See also R.C. 5101.20; R.C. 5101.81; R.C. Chapter 5107; R.C. Chapter 5113. The third program authorizes electors,² at locations other than the offices of the board of elections, office of Secretary of State, libraries, and other traditional registration sites, to register potential voters.³ See R.C. 3503.11 (provision of voter registration forms and assistance by volunteers). See also R.C. 3501.11(T); R.C. 3503.10; 1977 Op. Att'y Gen. No. 77-091. Thus, your question involves a consideration of whether Ohio law permits welfare work program participants to serve as volunteer voter registrars.

¹ Pursuant to 1983-1984 Ohio Laws 3692 (Am. Sub. H.B. 401, eff. July 20, 1984), the name of the Department of Public Welfare was changed to the Department of Human Services and the name of the county department of welfare was changed to the county department of human services. Statutory references are deemed to have been changed accordingly. See R.C. 329.01; R.C. 5101.01.

² R.C. 3501.01(N) defines an elector as "a person having the qualifications provided by law to entitle him to vote." Registration is a prerequisite to becoming an elector. See R.C. 3503.01; R.C. 3503.06-.07.

³ The Secretary of State has general advisory authority over the registration of voters by volunteers. See R.C. 3501.05; R.C. 3503.10-.11.

My analysis begins with Ohio's workfare program, see R.C. 5101.83, in which employable recipients of ADC and poor relief benefits are assigned to work devoted to a public purpose in exchange for the cash assistance received by their household units.⁴ Workfare is a reflection of federal legislation which invites any state to initiate a Community Work Experience Program ("CWEP"), see 42 U.S.C. §609,⁵ for ADC recipients.⁶ See 45 C.F.R. §238.01. R.C. 5101.83(A) states: "There is hereby established the workfare program, under which employable...recipients of aid to dependent children...and poor relief...shall be assigned to work for a public purpose in exchange for the cash assistance received by the household unit in which their assistance is included under such programs." R.C. 5101.83(B) authorizes the Director of Human Services to adopt rules under R.C. Chapter 119 to govern work projects to which employable recipients of aid to dependent children and poor relief are assigned. Such rules appear in 8 Ohio Admin.

⁴ I note that workfare programs are not yet in operation on a statewide basis. R.C. 5101.81(A) states, in part:

Beginning September 1, 1987, no expenditure of state funds shall be made to new household assistance units or, after their next regularly scheduled redetermination of eligibility, to existing household assistance units under aid to dependent children under sections 5107.02 to 5107.15 of the Revised Code or poor relief under Chapter 5113. of the Revised Code for the purpose of providing cash assistance in meeting aggregate basic living costs, including food, clothing, and shelter, unless employable persons, as defined in division (B) of this section, within that household assistance unit if not exempted under sections 5101.80 to 5101.91 of the Revised Code are required to work for a public purpose under the workfare program under the direction of a public agency or private nonprofit organization as a condition of eligibility for the receipt of or inclusion in the assistance payment. County departments of human services may, at the request of the department of human services, begin implementation of sections 5101.80 to 5101.91 of the Revised Code prior to September 1, 1987, if the board of county commissioners or other legislative authority of the county adopts a resolution agreeing to begin implementation of such sections in the county prior to that date. (Emphasis added.)

See note 9, infra.

⁵ CWEP was first enacted as part of the Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 357, 846-48 (enacted August 13, 1981). 45 C.F.R. §238.12 permits implementation of CWEP on less than a statewide basis.

⁶ Unlike ADC, the operation of poor relief programs is not a function of the federal government. Consequently, no federal authorization is necessary for Ohio to include in its CWEP program recipients of poor relief.

Code Chapter 5101:1-47, which is entitled "Work Programs" and which uses federal CWEP terminology.⁷

My discussion of the workfare program will be brief; however, for I conclude that administrative rules governing it prohibit the assignment of program recipients to voter registration duties. 8 Ohio Admin. Code 5101:1-47-71(B)(3) pertains to those public agencies and private nonprofit organizations that provide CWEP work sites for workfare programs and requires the county departments of human services to ensure that work sites established by CWEP sponsors "[d]o not require participants to perform political, partisan, or electoral activities." (Emphasis added.)⁸

⁷ 8 Ohio Admin. Code Chapter 5101:1-31, which is entitled "Work Relief," also uses CWEP terminology. Chapter 5101:1-31 was, however, adopted and filed under R.C. 111.15 (rather than R.C. Chapter 119), pursuant to the authority granted in R.C. 5113.04 and R.C. 5113.09 (rather than R.C. 5101.83). See R.C. 5113.04 (authorizing the Director of Human Services to "adopt rules to permit the county department of welfare to determine when a ninety-day period of ineligibility [for the receipt of poor relief by an employable person who fails or refuses to register for employment, accept employment, accept assignment to a work and training program, or perform the work assigned at such a program] is to begin"); R.C. 5113.09(A) (authorizing the Department of Human Services to "[m]ake reasonable rules for the effective administration of poor relief"). The provisions of Chapter 5101:1-31 are, thus, intended to apply in counties in which work-relief programs are still in effect and workfare programs have not yet been implemented, whereas the provisions of Chapter 5101:1-47 are intended to apply in counties in which workfare programs have been implemented. I, thus, understand that Chapter 5101:1-31 and Chapter 5101:1-47 are applicable in different counties and are mutually exclusive. See note 4, supra; note 9, infra. I understand, further, that, although Chapter 5101:1-31 uses CWEP terminology, it is not subject to federal CWEP requirements since it does not involve recipients of ADC. See 42 U.S.C. §609; 45 C.F.R. §238.01.

⁸ The proscription of electoral activities in Ohio's workfare program, as it applies to ADC recipients, is a requirement of federal law. See 45 C.F.R. §238.10 (states operating CWEP programs must establish such programs in accordance with the requirements of 45 C.F.R. Part 238); 45 C.F.R. §238.52(c) (a state must ensure that CWEP projects "[a]re not in any way related to political, electoral, or partisan activities"). There is, however, no federal requirement that such a proscription apply to recipients of poor relief. By establishing a single workfare program for recipients of ADC and recipients of poor relief, see R.C. 5101.83; 8 Ohio Admin. Code Chapter 5101:1-47, Ohio has imposed upon poor relief recipients who participate in the workfare program the same restrictions that apply to ADC recipients who participate in the program. It would, however, be possible, under the existing statutes, for the Ohio Department of Human Services to distinguish by rule between recipients of ADC and recipients of poor relief and to permit recipients of poor relief, to whom no federal

It is well established that the terms "political" and "partisan," when used in a prohibitory context, refer to partisan activities, campaigns, and elections relating to party primaries or ballots bearing party designations. See Gray v. City of Toledo, 323 F. Supp. 1281 (N.D. Ohio 1971); Heidtman v. City of Shaker Heights, 163 Ohio St. 109, 126 N.E.2d 138 (1955); 1983 Op. Att'y Gen. No. 83-095; 1 Ohio Admin. Code 123:1-46-02. The term "electoral," however, has a wider scope when used in the same prohibitory context. Webster's New World Dictionary 449 (2d college ed. 1978) defines "electoral" as pertaining generally to "an election or electors." Voter registration, as my predecessor in office has noted, is a specific statutory component of the election process. See Op. No. 77-091. More specifically, the terms "elector" and "qualified elector" are used under Ohio law in the context of voter registration qualifications and procedures, or to refer to those persons who are properly registered to vote. See, e.g., Ohio Const. art. V, §1; R.C. 3501.01(N); R.C. 3503.01. For these reasons, I am compelled to conclude that rule 5101:1-47-71(B)(3) excludes all activities involving any aspect of the election process from the workfare CWEP programs.

I turn now to the second of the statutory programs to which your question relates--namely, the work-relief provisions of R.C. 5101.21.⁹ R.C. 5101.21¹⁰ sets forth requirements

proscription of electoral activities applies, to participate in electoral activities established as approved work projects. With respect to voter registration, the uniform nationwide applicability of the federal prohibition against the participation of ADC recipients in work projects involving electoral activities has particular relevance in those states which permit or require a declaration of party affiliation by the registrant at the time of registration. Ohio is not one of those states. See R.C. 3503.14; R.C. 3513.05.

⁹ Under Section 24 (uncodified) of Am. Sub. H.B. 1053, 116th Gen. A. (1986) (eff. Dec. 19, 1986), R.C. 5101.21 applies in a particular county only until the workfare provisions of R.C. 5101.81-.91 are implemented within that county. See note 4, supra. Section 24 contains an amendment of uncodified language appearing in prior legislation. With reference to workfare programs, Section 24 states:

Workfare

The Department of Human Services may begin implementation of sections 5101.81 to 5101.91 of the Revised Code prior to September 1, 1987 in any county selected by the department for this purpose if the board of county commissioners or other legislative authority of that county adopts a resolution agreeing to begin implementation of such sections in the county prior to that date. The following requirements of such sections shall not apply in the programs implemented in counties selected for early implementation until September 1, 1987:

(A) The requirement in division (E) of section 5101.81 of the Revised Code that at least 25 per cent of the expenditures for job club activities in any year shall be made for services

purchased through competitive bidding from private contractors;

(B) The requirement in division (H) of section 5101.82 of the Revised Code that at least 25 per cent of the expenditures for payments to employers and placement activities under the subsidized employment program in any year shall be made for services provided under a contract with the Bureau of Employment Services.

If the department implements sections 5101.81 to 5101.91 of the Revised Code in a county or counties under this division, the department shall study the programs implemented and submit a report containing evaluations and recommendations concerning the programs to the Speaker of the House of Representatives, the President of the Senate, and the Welfare Oversight Commission on or before April, 1987.

Sections 124.12, 5101.20, 5101.80 to 5101.91, 5101.99, 5107.031, 5113.02, 5113.04, and 5113.09 of the Revised Code do not apply in any county prior to September 1, 1987, unless the Department of Human Services begins the implementation of sections 5101.81 to 5101.91 of the Revised Code in that county under this division. These sections shall first apply in a county on a date agreed to by the department and the county and specified in the resolution adopted under this division, and on and after such date sections 5101.21 and 5101.22 of the Revised Code as such sections existed prior to Am. Sub. S.B. 530 of the 114th General Assembly do not apply in that county.

Workfare Pilot Projects

....

The Department of Human Services shall begin the expansion of workfare programs in twenty additional counties during the 1985-1987 biennium. Ten counties shall have implemented workfare programs by June 30, 1986. (Emphasis added.)

Section 3 (uncodified) of Am. Sub. H.B. 238, 116th Gen. A. (1985) (eff., in part, July 1, 1985) amends prior uncodified language to provide for the repeal of R.C. 5101.21 and 5101.22, effective September 1, 1987.

The language of Section 24 of Am. Sub. H.B. 1053 that is underlined above suggests that no version of R.C. 124.12, 5101.20, 5101.80-.91, 5101.99, 5107.031, 5113.02, 5113.04, or 5113.09 currently applies in any county unless the workfare program has been implemented in that county. It is, however, apparent from the history of those provisions that it was the intent of the General Assembly to retain the work-relief versions of R.C. 124.12, 5101.20, 5107.031, 5113.02, 5113.04, and 5113.09 in each county until the workfare provisions of R.C. 5101.80-.91 and 5101.99 became effective in that county. 1981-1982 Ohio Laws, Part I, 985, 1152 (Am. Sub. S.B. 530, eff., in part, June 25, 1982), which initially enacted the workfare provisions, stated, in Sections 65 and 66 (uncodified), that R.C. 124.12, 5101.20, 5107.031, 5113.02, 5113.04, and 5113.09 as amended thereby were to take effect 180 days

after the effective date of the act, and that the repeal of R.C. 5101.21 and 5101.22 was to take effect at the same time. 1981-1982 Ohio Laws, Part I, 1176, 1282-83 (Am. Sub. S.B. 550, eff., in part, Nov. 26, 1982) stated, in Section 38 (uncodified):

That sections 65 and 66 of Am. Sub. S.B. 530 of the 114th General Assembly be amended to read as follows:

"Sec. 65. Sections 124.12, 5101.20, 5107.031, 5113.02, 5113.04, and 5113.09 as amended by this act AND SECTIONS 5101.80 TO 5101.91 AND 5101.99 OF THE REVISED CODE AS ENACTED BY THIS ACT shall take effect...JANUARY 1, 1983

Sec. 66. The repeal of sections 5101.21 and 5101.22 of the Revised Code by this act shall take effect...MARCH 1, 1983."

Further, Section 55 (uncodified) of Am. Sub. S.B. 550 stated:

Sections 124.12, 5101.20, 5107.031, 5113.02, 5113.04, and 5113.09 of the Revised Code as amended by Am. Sub. S. B. 530 of the 114th General Assembly and sections 5101.80 to 5101.91 and 5101.99 of the Revised Code as enacted by that act do not apply in any county from and after December 31, 1982 through February 28, 1983, unless the board of county commissioners adopts a resolution to that effect. Such sections shall first apply on a date specified in the resolution and on and after such date sections 5101.21 and 5101.22 of the Revised Code as such sections existed prior to Am. Sub. S. B. 530 of the 114th General Assembly do not apply. Until the board of county commissioners adopts a resolution as contemplated by this section, or until March 1, 1983, whichever occurs first, sections 124.12, 5101.20, 5107.031, 5113.02, 5113.04, and 5113.09 of the Revised Code as amended by Am. Sub. S. B. 530 of the 114th General Assembly and sections 5101.80 to 5101.91 and 5101.99 of the Revised Code as enacted by that act do not apply in any county and sections 5101.21 and 5101.22 of the Revised Code as such sections existed prior to Am. Sub. S. B. 530 of the 114th General Assembly do apply in such county.

1981-1982 Ohio Laws, Part I, at 1294. Successive delays in the implementation of the workfare program and the elimination of the work-relief program resulted from subsequent amendments to Section 55 (uncodified) of Am. Sub. S.B. 550, and Section 66 (uncodified) of Am. Sub. S.B. 530. See 1983-1984 Ohio Laws, Part II, 2872, 3103, 3372 (Am. Sub. H.B. 291, eff., in part, July 1, 1983) (R.C. 5101.81; Sections 144 and 146, uncodified) (delaying complete implementation of the workfare program and the elimination of the work relief program until Sept. 1, 1985); 1983-1984 Ohio Laws, Part I, 1855, 1894, 1934-36 (Am. Sub. H.B. 100, eff., in part, Feb. 24, 1983) (R.C. 5101.81; Sections 22 and 27, uncodified) (delaying complete

that are applicable to employable recipients of ADC or poor relief who are assigned to local and state work-relief projects. No statutory provisions relate directly to the question whether the registration of voters is a permissible work-relief project. Rules governing work-relief appear in 8 Ohio Admin. Code Chapter 5101:1-31. Those rules use CWEP terminology but are independent of the rules set forth in 8 Ohio Admin. Code Chapter 5101:1-47 that are applicable in workfare counties. See note 7, supra. Therefore, the proscription against electoral activities that appears in rule 5101:1-47-71(B)(3) is not applicable in work-relief counties. As noted above, federal CWEP requirements do not apply to state poor relief programs. See notes 6, 7, 8, supra. As a result, the only administrative requirements governing work programs in work-relief counties are those appearing in 8 Ohio Admin. Code

implementation of the workfare program and the elimination of the work-relief program until Sept. 1, 1983). I find from the existence of this legislative scheme a clear intent on the part of the General Assembly that the work relief provisions of R.C. 124.12, 5101.20, 5107.031, 5113.02, 5113.04 and 5113.09 are to remain in effect in each county of Ohio that has not instituted a workfare program under R.C. 5101.80-.91, and I read Section 24 (uncodified) of Am. Sub. H.B. 1053 as implementing such a result. See generally R.C. 1.47; R.C. 1.49; Stanton v. Frankel Brothers Realty Co., 117 Ohio St. 345, 350, 158 N.E. 868, 870 (1927) ("[t]he strict letter of a statute must yield to the obvious intent"); Van Camp v. Riley, 16 Ohio App. 3d 457, 476 N.E.2d 1078 (Clermont County 1984); 1983 Op. Att'y Gen. No. 83-093. The rules adopted by the Department of Human Services carry out this legislative scheme. See note 7, supra.

While the wisdom of establishing pilot programs before instituting major policy changes in the human services area is not open to question, the legislative procedure adopted in phasing in the workfare program may raise the issue of whether the General Assembly has failed to observe the requirement of Ohio Const. art. II, §26 that "[a]ll laws, of a general nature, shall have a uniform operation throughout the state." It is, however, not a function of the Attorney General, a member of the executive branch of government, to opine on the constitutionality of acts of the legislature. Rather, that is a function of the judiciary. See, e.g., 1981 Op. Att'y Gen. No. 81-100.

10 R.C. 5101.21 states, in part:

(A) Except as otherwise provided with respect to recipients of aid under Chapter 5107. of the Revised Code under a substitute state plan submitted and approved under division (B) of this section, the following requirements shall apply to employable recipients of aid under Chapters 5107. [aid to dependent children] and 5113. [poor relief] of the Revised Code who are assigned to local and state work-relief projects under section 5101.20 of the Revised Code....

The references in R.C. 5101.21 to R.C. 5101.20 are clearly to the version of R.C. 5101.20 in effect in non-workfare counties. See note 9, supra.

Chapter 5101:1-31. 8 Ohio Admin. Code 5101:1-31-01(F) sets forth provisions governing such programs, including the following:

(F) Each CDHS [county department of human services] has the responsibility of providing sufficient CWEP project sites to assign all employable GR [general relief] recipients. All levels of government agencies, schools, and private nonprofit organizations which serve a useful public purpose are potential CWEP sites.

....
 (2) The following guidelines must be adhered to in establishing a CWEP project:

(a) Work performed on a CWEP project must serve a useful public purpose and not interfere with or displace regular employees.

The question whether the voter registration activities contemplated in your request serve a useful public purpose is of critical importance to your request. The requirement of rule 5101:1-31-01(F)(2)(a) derives from the obvious fact that work-relief programs and associated costs involve the expenditure of public funds. Public money may be expended only for a valid public purpose. See Kohler v. Powell, 115 Ohio St. 418, 154 N.E. 340 (1926). As a general rule, where the legislature has specifically authorized the expenditure of funds for a particular purpose, such legislative determination is accorded great weight in examining the validity of such expenditure. See State ex rel. McClure v. Hagerman, 155 Ohio St. 320, 98 N.E.2d 835 (1951). The legislature has included voter registration among the duties of several different classes of employees who are paid with public funds. The most obvious, of course, are members and employees of the county boards of elections. See R.C. 3501.11(T); R.C. 3503.11. Such duties have, however, also been conferred upon employees of offices not generally associated with the actual conduct of elections at the county level. See R.C. 3503.10 (certain designated employees of boards of education); R.C. 3503.11 (the Secretary of State and certain designated employees of his office, members of the General Assembly, and the Registrar of Motor Vehicles and deputy registrars). Similar considerations led my predecessor to conclude that a board of library trustees may find, in its discretion, that the use of library personnel and facilities to conduct voter registration is a proper library service. Op. No. 77-091; see R.C. 3375.40(H). Further, R.C. 3503.11(B) authorizes a board of elections to provide registration forms to private individuals who serve as voter registrars. Such provisions clearly evidence the General Assembly's determination that an expansion of the opportunity to exercise the electoral franchise is in the public interest, that the registration of voters is an activity of a public nature, and that certain costs incidental to registration may be paid for with public funds. Thus, I conclude that voter registration activities are compatible with the public purpose requirement for work-relief projects. I note that the remaining requirements established for work-relief assignments by rule 5101:1-31-01(F) are essentially standards of a technical nature to be followed by the sponsoring agency¹¹

¹¹ Your request refers to a program "directed by the county boards of elections." If this is a reference to a board of elections as a sponsoring agency, the requirements

with respect to such matters as supervision, personnel procedures, and worker safety. I conclude, therefore, that existing provisions permit the establishment of a program under which recipients of general relief perform voter registration activities.

I turn now to a consideration of the provisions governing the registration of voters by volunteers. It is my understanding that your question relates to programs under which registration activities will take place outside the offices of a board of elections, and the board of elections will either sponsor the registration or assist a sponsoring agency by providing registration materials and instruction in proper registration techniques. See note 11, supra. The relevant statutory provisions appear in R.C. 3503.11(B)(2), as follows:

Every board of elections shall, upon request, supply registration forms to any person who resides in the county and is qualified to vote. Such person may distribute the registration forms and provide assistance in registration to any other person who resides in the county served by the board from which the forms were received and is qualified to register. Any person who serves as a voter registrar under this paragraph shall, prior to any such distribution or provision of assistance, sign a statement, as prescribed by the secretary of state, specifying the duties imposed on such person by the law relating to the registration of voters and the penalty for the failure to comply with the law. The board may provide by rule for a reasonable fee, not to exceed the cost of printing, for registration forms supplied to any person under this division in a quantity exceeding fifteen.

Under R.C. 3503.11(B)(2), any registered individual may register others in his or her county of residence, making use of registration forms provided by the board. The volunteer voter registrar¹² must review and sign a statement prescribed

established by rule must, of course, be followed by the board in assigning work-relief participants to voter registration efforts outside the board office. I have, however, assumed that you also contemplate programs under which boards of elections instruct work-relief participants in proper registration techniques and provide them with registration materials, with actual supervision at the work site to be undertaken by other public agencies in the county that do not ordinarily offer voter registration as a service. In this version of a voter registration work-relief project, the separate public agency, and not the board of elections, would be considered the sponsoring agency. In my opinion, neither type of project offends existing work-relief provisions.

¹² The only term used in R.C. 3503.11(B) to designate persons operating under its provisions is "voter registrar." However, local usage among the boards of elections is "volunteer registrar" or "deputy registrar." The latter term is not to be confused with that pertaining to deputy registrars of the Bureau of Motor Vehicles, whose voter registration duties are mandated by R.C. 3503.11(D). The term "volunteer registrar" is used in R.C. 3503.10 to

by the Secretary of State pertaining to registration procedures. The board of elections is authorized to supply registration forms. See also R.C. 3503.08 (authorizing a board of elections to provide printed forms, blanks, supplies, and equipment and to prescribe rules for carrying out its functions). I find nothing in this volunteer registrar scheme that conflicts with the law established for work-relief projects. I conclude, therefore, that participants in work-relief projects under R.C. 5705.21 may be assigned to voter registration duties by their sponsoring agency, and that the boards of elections may direct the project participants in their volunteer registrar duties under the provisions of R.C. 3503.11(B). I note that work-relief participants acting as voter registrars should be instructed to avoid solicitations or gratuitous comments of a partisan nature. See generally R.C. 5101.41;¹³ 8 Ohio Admin. Code 5101:1-31(F); note 8, supra.

In concluding that work-relief participants may undertake voter registration, I am fully aware of that provision of Ohio's election code that prohibits coercion in the registration of voters. R.C. 3599.01 provides, in pertinent part: "No person shall before, during, or after any primary, convention, or election: ... (2) Attempt by intimidation, coercion, or other unlawful means to induce [a] delegate or elector to register or refrain from registering....(B) Whoever violates this section is guilty of bribery, a felony of the fourth degree...." In the context of a work-relief voter registration project, the coercive element could intrude as a result of the provision that would deny benefits to an employable recipient of aid who, without good cause, refuses assignment to a work-relief project. See R.C. 5113.04; 8 Ohio Admin. Code Chapter 5101:1-31. The operation of the penal provisions of R.C. 3599.01 may, however, be avoided if the county department of human services or the sponsoring agency ensures that only those work-relief participants who are already registered to vote and who willingly participate are assigned to a voter registration project.

By observing this condition, the county department or the sponsoring agency may also avoid any question of offense under R.C. 3599.02, which states, in pertinent part:

mean an individual designated by a board of education to assist in the registration of persons qualified to register to vote. The individual so designated must be a school staff member. This provision is, therefore, not applicable to your question.

¹³ R.C. 5101.41 states:

The department of public welfare shall make rules for the nonpartisan management of the institutions under its control. Any officer or employee of the department or any officer or employee of any institution under its control, who by solicitation or otherwise, exerts his influence directly or indirectly to induce any other officer or employee of any such institutions to adopt his political views or to favor any particular person, issue, or candidate for office, shall be removed from his office or position, by the department in case of an officer or employee and by the governor in case of the director of public welfare.

No person shall before, during, or after any primary, convention, or election solicit, request, demand, receive, or contract for any money, gift, loan, property, influence, position, employment, or other thing of value for himself or another:

(A) For registering or refraining from registering;

(B) For agreeing to register or to refrain from registering;

....
Whoever violates this section is guilty of bribery....

While the opportunity to participate in a work-relief program may constitute the receipt of a thing of value, I note that, if the work-relief voter registrar is registered prior to the receipt of a work-relief assignment, it cannot be found that his registration is the subject of an act prohibited by R.C. 3599.02.

Similarly, it appears that the penal sanctions set forth in R.C. 3599.01 and 3599.02 may not be imposed against one who, pursuant to statutory authorization, agrees to be assigned to a work-relief voter registration project and registers others to vote, assuming that registration activities are performed in accordance with R.C. 3503.11(B)(2). Both statutes are penal provisions and cannot be extended by inference or construction to include conduct not expressly proscribed. See State v. Dunham, 154 Ohio St. 63, 93 N.E.2d 286 (1950); City of Cincinnati v. Levine, 81 Ohio App. 181, 75 N.E.2d 177 (Hamilton County 1947); City of Middletown v. Baker, 73 Ohio App. 296, 53 N.E.2d 66 (Butler County 1943). See also R.C. 2901.04(A) ("[s]ections of the Revised Code defining offenses or penalties shall be strictly construed against the state, and liberally construed in favor of the accused").

In conclusion, it is my opinion, and you are hereby advised, as follows:

1. 8 Ohio Admin. Code 5101:1-47-71(B)(3), which requires the county department of human services to ensure that a sponsoring agency does not assign participants in a workfare program under R.C. 5101.83 to electoral activities, precludes assignment of such participants to voter registration duties.
2. Participants in work-relief projects under R.C. 5101.21 may be assigned to voter registration duties by their sponsoring agency, and the county board of elections may direct the project participants in their volunteer registrar duties under R.C. 3503.11(B)(2).