

OPINION NO. 82-019**Syllabus:**

1. R.C. 3709.31 does not require anyone other than the health commissioner to sign an expense voucher of a board of health of a general health district before the county auditor may issue his warrant for the payment of such voucher.
2. A board of health of a general health district may approve a number of vouchers by a single resolution, provided that the board has seen or at least knows the contents of such vouchers before it takes any action on the proposed resolution.
3. The approval of expense vouchers by a board of health of a general health district is a discretionary duty which may not be delegated to the health commissioner.

To: R. Larry Schneider, Union County Prosecuting Attorney, Marysville, Ohio
By: William J. Brown, Attorney General, April 6, 1982

I have before me your request for my opinion concerning the duty of a board of health of a general health district to approve vouchers for the board's expenses. Further information obtained pursuant to a phone conversation between your office and a member of my staff refined your opinion request into the following three questions:

- (1) Does R.C. 3709.31 require anyone other than the health commissioner to sign an expense voucher before payment may be made?
- (2) May the board of health of a general health district approve a number of its expense vouchers by a single resolution?
- (3) May the board of health of a general health district delegate to the health commissioner its duty to approve the board's expense vouchers?

In your first question, you ask whether R.C. 3709.31 requires anyone other than the health commissioner to sign an expense voucher before payment may be made. R.C. 3709.31 states, in part, that: "[e]xpenses of the board of health of a general health district shall be paid on the warrant of the county auditor issued on vouchers approved by the board of health and signed by the health commissioner." Since R.C. 3709.31 requires the signature of only the health commissioner on vouchers approved by the board, it appears that the General Assembly did not intend that anyone else sign these vouchers prior to payment by the auditor. Since R.C. 3709.31 expressly states that the health commissioner must sign the vouchers, I do not believe that the language of R.C. 3709.31 requiring approval by the board can be read to imply that the signature of each or any member of the board is also necessary. I conclude, therefore, that the only signature required on an approved expense voucher before payment may be made is that of the health commissioner.

Your second question concerns the manner in which the board of health of a general health district is to approve expense vouchers. Specifically, you inquire

whether the board of health may approve a number of vouchers by a single resolution. It is my understanding that the proposed method of approval contemplates consolidating a number of different vouchers into one request. The itemized vouchers would then be approved in a single action by the board.

Although R.C. 3709.31 requires that the board approve expense vouchers, the statute does not specify a method of approval. As a general rule, "[w]here authority is given to do a specified thing, but the precise mode of performing it is not prescribed, the presumption is that the legislature intended the party might perform it in a reasonable manner." Jewett v. Valley Railway Co., 34 Ohio St. 601, 608 (1878). Clearly, a board of health could not reasonably approve any voucher without seeing the voucher or knowing the contents thereof. A proper approval procedure must, therefore, provide for the board to see either the actual expense voucher or a copy of the expense voucher, or otherwise provide that the contents of each voucher are made known to the board before the board takes any action. It does not seem unreasonable, however, for a board of health of a general health district to consider simultaneously a number of different vouchers, so long as the board has seen or at least knows the contents of each voucher before it passes any resolution approving the vouchers.¹

In answer to your second question, therefore, I conclude that, pursuant to R.C. 3709.31, a board of health of a general health district may approve a number of vouchers by a single resolution, provided that the board has seen or at least knows the contents of such vouchers before it takes any action on the proposed resolution.

Your final question asks whether a board of health of a general health district may delegate to the health commissioner the board's duty to approve its expense vouchers.

In 1979 Op. Att'y Gen. No. 79-067, I discussed the principles governing the delegation of statutory authority. As a general rule, a public body may not delegate duties which require the exercise of judgment and discretion unless such authority is expressly conferred by statute.

The presumption exists that the Legislature has delegated duties to an agency named in a statute because the agency is deemed competent to exercise the judgment and discretion necessary for performance of the duties. Cf. 1977 Op. Att'y Gen. No. 77-064 (concluded that certain public officers may not designate alternates to serve in their capacity). It would contravene the legislative intent of such a statute, therefore, to allow a judgmental and discretionary act to be delegated to an entity other than the entity originally entrusted with the duty by statute.

¹A procedure for the approval of a number of expense vouchers by a single resolution has been authorized by the Auditor of State for use by boards of county commissioners in payment of county obligations. This approval procedure was designed specifically to expedite the counties' bill paying process, which is comparable to, albeit more complex than, the basic procedure followed by a board of health as provided for in R.C. 3709.31. This procedure involves presenting an itemized list of vouchers, together with supporting evidence of such expenses, to the board. Upon passage of a resolution approving the vouchers, a reference identifying the approved resolution is placed upon each voucher. A copy of the resolution and the actual expense vouchers are then presented to the county auditor for payment. The full procedure is set out in Circular No. 1614, Bureau of Inspection and Supervision of Public Offices, Auditor's Office, February 10, 1975. The procedure followed by the county commissioners could easily be adopted by a board of health of a general health district and applied to the board's approval of expense vouchers. I am merely mentioning it as an example of a possible procedure, however, and am not suggesting that it is the only procedure which the board might lawfully adopt.

Op. No. 79-067 at 2-223. A public body may, however, delegate duties which are purely ministerial in nature. Thus, the answer to your question turns on whether the duty of approval is discretionary or ministerial.

Clearly, the board's duty to approve its expense vouchers necessarily requires the exercise of judgment and discretion. "The word 'approved' naturally imports the exercise of judgment and discretion; and the power to approve ordinarily implies a power to disapprove." Apfel v. Mellon, 33 F.2d 805, 806 (D.C. Cir. 1929). As the board is not obligated to approve every expense voucher that comes before it, its duty cannot be fairly categorized as ministerial. Because a board of health's duty to approve vouchers, as set forth in R.C. 3709.31, requires the exercise of judgment and discretion, and because there is no express statutory authority to delegate such duty, a board of health of a general health district may not delegate to the health commissioner its duty of approving expense vouchers.

Therefore, it is my opinion, and you are advised, that:

1. R.C. 3709.31 does not require anyone other than the health commissioner to sign an expense voucher of a board of health of a general health district before the county auditor may issue his warrant for the payment of such voucher.
2. A board of health of a general health district may approve a number of vouchers by a single resolution, provided that the board has seen or at least knows the contents of such vouchers before it takes any action on the proposed resolution.
3. The approval of expense vouchers by a board of health of a general health district is a discretionary duty which may not be delegated to the health commissioner.