

**OPINION NO. 2007-036**

**Syllabus:**

1. Under R.C. 9.03(C), the board of health of a general health district is prohibited from using public funds to publish, distribute, or otherwise communicate information that supports or opposes the passage of a levy or bond issue or to compensate any employee for time spent on any activity to influence the outcome of an election for the passage of a levy or bond issue, but is permitted to use public funds to compensate an employee for attending a public meeting to present information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy or bond issue, even though the levy or bond issue is discussed or debated at the meeting. Therefore, the board of health of a general health district is not permitted to conduct a campaign to support the passage of a tax levy, but may conduct a

- program to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of the levy.
2. The board of health of a general health district may accept donations to support its programs, including programs to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy.
  3. A township may donate public money to the board of health of a general health district only if the township has statutory authority, either express or necessarily implied, to make such a donation. Existing statutes do not provide authority for a township to donate to the board of health of a general health district money to support a program to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy. Therefore, the board of health of a general health district may not solicit from a township donations for this purpose.

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**To: Gary L. Lammers, Putnam County Prosecuting Attorney, Ottawa, Ohio**  
**By: Marc Dann, Attorney General, October 23, 2007**

We have received your request for an opinion concerning the authority of a county board of health to solicit and receive, and the authority of a township to make, monetary donations in support of a county health department levy campaign. You have stated your question as follows:

I would ... like to request an opinion as to whether or not a county board of health may solicit and receive monetary donations from townships and similar governmental entities in support of a county health department levy campaign. The question could also be phrased as to whether or not a township may use public monies to make monetary donations to a county board of health upon receiving a solicitation for a donation in support of a county health department levy campaign.

For the reasons set forth below, we reach the following conclusions:

1. Under R.C. 9.03(C), the board of health of a general health district is prohibited from using public funds to publish, distribute, or otherwise communicate information that supports or opposes the passage of a levy or bond issue or to compensate any employee for time spent on any activity to influence the outcome of an election for the passage of a levy or bond issue, but is permitted to use public funds to compensate an employee for attending a public meeting to

present information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy or bond issue, even though the levy or bond issue is discussed or debated at the meeting. Therefore, the board of health of a general health district is not permitted to conduct a campaign to support the passage of a tax levy, but may conduct a program to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of the levy.

2. The board of health of a general health district may accept donations to support its programs, including programs to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy.
3. A township may donate public money to the board of health of a general health district only if the township has statutory authority, either express or necessarily implied, to make such a donation. Existing statutes do not provide authority for a township to donate to the board of health of a general health district money to support a program to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy. Therefore, the board of health of a general health district may not solicit from a township donations for this purpose.

#### **Organization and Powers of Putnam County Board of Health**

Under Ohio law, the territory of the state is divided into health districts, with each city constituting a city health district and the townships and villages in each county forming a general health district. R.C. 3709.01. A county general health district is governed by a board of health consisting of five members. R.C. 3709.02. Four members are appointed by the district advisory council, which consists of a representative of the county and of each township and municipality included in the health district. R.C. 3709.03. One member is appointed by the health district licensing council, which consists of one representative of each business activity for which the board of health operates a licensing program. R.C. 3709.03(B); R.C. 3709.41.<sup>1</sup>

Each health district is a political subdivision separate from any county, township, or municipality. *See, e.g.*, 1997 Op. Att'y Gen. No. 97-029, at 2-173 to 2-174; 1991 Op. Att'y Gen. No. 91-016, at 2-80 (“[t]he health districts are political subdivisions of the state, governed by state law, and are separate from any city,

<sup>1</sup> City and general health districts may combine and be organized in various ways. A combined district that includes a general health district is known as a general health district. *See, e.g.*, R.C. 3709.01; R.C. 3709.051; R.C. 3709.07; R.C. 3709.10; 2004 Op. Att'y Gen. No. 2004-047, at 2-411; 1997 Op. Att'y Gen. No. 97-029, at 2-174.

county, township or other local government’’); *see also* 2001 Op. Att’y Gen. No. 2001-013, at 2-77. Further, each health district is a creature of statute, having only the powers it is granted by statute, either expressly or by necessary implication. *See, e.g., D.A.B.E., Inc. v. Toledo-Lucas County Bd. of Health*, 96 Ohio St. 3d 250, 2002-Ohio-4172, 773 N.E.2d 536, at ¶38-39; 2007 Op. Att’y Gen. No. 2007-005, at 2-42.

The Putnam County Board of Health is the governing board of the general health district encompassing the townships and villages of Putnam County. *See* 2004 Op. Att’y Gen. No. 2004-047, at 2-411; <http://www.putnamhealth.com/pgcghannual1.htm>. Accordingly, the Putnam County General Health District, also known as the Putnam County Health Department, is a political subdivision having only the powers granted under R.C. Chapter 3707, R.C. Chapter 3709, and other provisions of the Ohio Revised Code. *See, e.g., D.A.B.E., Inc. v. Toledo-Lucas County Bd. of Health* at ¶23-24; 2007 Op. Att’y Gen. No. 2007-005, at 2-42 n.6; <http://www.putnamhealth.com>.

**Restrictions on the Authority of a Political Subdivision to Expend Public Funds to Support or Oppose the Passage of a Levy**

The question whether a political subdivision may use public funds to promote ballot issues has been considered by the General Assembly and addressed in R.C. 9.03.<sup>2</sup> That statute confers upon the governing body of a political subdivision general authority to “use public funds to publish and distribute newsletters, or to use any other means, to communicate information about the plans, policies, and operations of the political subdivision to members of the public within the political subdivision and to other persons who may be affected by the political subdivision.” R.C. 9.03(B). The board of health of a general health district is a political subdivision for purposes of R.C. 9.03.<sup>3</sup>

With regard to the promotion of ballot issues, R.C. 9.03 states:

<sup>2</sup> There may be constitutional questions as to whether or when public funds may be used to support the election of particular individuals or the passage of particular ballot issues. *See generally, e.g., Kidwell v. City of Union*, 462 F.3d 620 (6th Cir. 2006), *cert. denied*, 127 S. Ct. 2258, 2007 U.S. LEXIS 5197 (May 14, 2007); 1999 Op. Att’y Gen. No. 99-030, at 2-203 to 2-205; 1992 Op. Att’y Gen. No. 92-029, at 2-111 n.4. It is not necessary to address those questions to respond to your inquiry.

<sup>3</sup> For purposes of R.C. 9.03, “political subdivision” is defined as follows:

(A) As used in this section, “political subdivision” means any body corporate and politic, except a municipal corporation that has adopted a charter under Section 7 of Article XVIII, Ohio Constitution, and except a county that has adopted a charter under Sections 3 and 4 of Article X, Ohio Constitution, to which both of the following apply:

(1) It is responsible for governmental activities only in a geographic area smaller than the state.

(2) It is subject to the sovereign immunity of the state.

(C) Except as otherwise provided in division (A)(7) of section 340.03 or division (A)(12) of section 340.033 of the Revised Code,<sup>4</sup> *no governing body of a political subdivision shall use public funds to do any of the following:*

(1) *Publish, distribute, or otherwise communicate information that does any of the following:*

....

(e) *Supports or opposes the nomination or election of a candidate for public office, the investigation, prosecution, or recall of a public official, or the passage of a levy or bond issue.*

(2) *Compensate any employee of the political subdivision for time spent on any activity to influence the outcome of an election for any of the purposes described in division (C)(1)(e) of this section.* Division (C)(2) of this section does not prohibit the use of public funds to compensate an employee of a political subdivision for attending a public meeting to present information about the political subdivision's finances, activities, and governmental actions in a manner that is not designed to influence the outcome of an election or the passage of a levy or bond issue, even though the election, levy, or bond issue is discussed or debated at the meeting. (Emphasis and footnote added.)

Hence, under R.C. 9.03(C), the board of health of a general health district is

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A board of health is responsible for governmental activities involving the protection of the public health in an area smaller than the state, and is included among the entities subject to the sovereign immunity of the state. *See Doolittle v. Shook*, Mahoning App. No. 06 MA 65, 2007-Ohio-1412, 2007 Ohio App. LEXIS 1283, at ¶12 (Mar. 23, 2007) (“the Board of Health is a political subdivision pursuant to R.C. 2744.01(F) and thus, is entitled to the blanket immunity as set forth in R.C. 2744.02(A)(1)”); R.C. 2744.01(C)(2)(n) (governmental functions include the “operation of a health board, department, or agency”); R.C. 2744.01(F) (defining “[p]olitical subdivision” for purposes of political subdivision tort liability); *see also* R.C. 2743.01(B) (defining “[p]olitical subdivisions” for purposes of Court of Claims law to include “bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches”).

<sup>4</sup> R.C. 340.03(A)(7) and R.C. 340.033(A)(12) authorize a board of alcohol, drug addiction, and mental health services to recruit and promote local financial support from private and public sources for mental health programs and for alcohol and drug addiction programs. This authority has been recognized as sufficient to permit a board of alcohol, drug addiction, and mental health services to “expend public funds to promote the approval by the electorate of a tax levy for mental health programs or alcohol and drug addiction programs, provided that the board has public funds available that may lawfully be expended for that purpose.” 1999 Op. Att’y Gen. No. 99-030 (syllabus).

prohibited from using public funds to publish, distribute, or otherwise communicate information that supports or opposes the passage of a levy or bond issue or to compensate any employee for time spent on any activity to influence the outcome of an election for the passage of a levy or bond issue, but is permitted to use public funds to compensate an employee for attending a public meeting to present information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy or bond issue, even though the levy or bond issue is discussed or debated at the meeting. Therefore, the board of health of a general health district is not permitted to conduct a campaign to support the passage of a tax levy, but may conduct a program to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of the levy. *See Merriam-Webster's Collegiate Dictionary* 178 (11th ed. 2005) (including among the definitions of "campaign": "a connected series of operations designed to bring about a particular result <election~>"); 2002 Op. Att'y Gen. No. 2002-001.

The distinction between providing information and promoting the passage of a levy may not always be clear and may depend upon the facts of a particular situation.<sup>5</sup> As was stated in 1999 Op. Att'y Gen. No. 99-030, at 2-202 n.4:

There may be some question as to the distinction between merely disseminating information and conducting a campaign to promote a particular ballot issue. *See* 1968 Op. Att'y Gen. No. 68-124; *see also Stan-son v. Mott*, 17 Cal. 3d 206, 551 P.2d 1 (1976); *Putter v. Montpelier Pub.*

<sup>5</sup> A description of circumstances in which information may properly be disseminated was set forth in 1999 Op. Att'y Gen. No. 99-030, at 2-202 n.5, as follows:

It is generally accepted that the dissemination of information is a proper function of a public body and that public money may be expended for that purpose. *See State ex rel. Corrigan v. Seminatore*, 66 Ohio St. 2d 459, 423 N.E.2d 105 (1981); 1994 Op. Att'y Gen. No. 94-041, at 2-210 n.1; 1992 Op. Att'y Gen. No. 92-029, at 2-110 n.3. Accordingly, even without express statutory authority, public officials and public offices may be permitted to inform the public of the consequences that are expected to follow from the passage or defeat of a particular tax levy. For example, if a tax levy will provide funds for a particular program, or if the defeat of a tax levy will result in the inability to fund a particular program, public officials may so inform the public, either orally or in print. In addition, public officials may express their own views regarding the merits of a particular ballot issue. The general authority to expend funds and administer public programs, however, does not permit a public body or a public official to expend public funds specifically to attempt to persuade people to vote a particular way on a ballot issue—that is, to say "Vote Yes on Issue X." Authority to expend public money for that purpose must be specifically granted.

*Sch. Sys.*, 166 Vt. 463, 697 A.2d 354 (1997). Thus, it may be necessary to consider questions involving specific facts on a case-by-case basis.

### **Funding of a General Health District**

The fact that R.C. 9.03 authorizes a board of health to conduct a program to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy raises the question whether a board of health may accept donations for this purpose. To answer this question, it is helpful to consider the manner in which the operations of a general health district are financed.

A board of health may receive funds from several sources, including fees for providing services, a subsidy from the state, and grants for various purposes. *See, e.g.*, R.C. 3709.09; R.C. 3709.15; R.C. 3709.28; R.C. 3709.282-.283; R.C. 3709.32; *see also* R.C. 3701.342. A special levy may be adopted under R.C. 3709.29 to fund a general health district. *See also* R.C. 3707.55 and 2000 Op. Att'y Gen. No. 2000-048 (board of county commissioners may issue securities of the county for the acquisition of real property by a general health district, but only if the health district contracts to pay the county an amount equal to the debt charges on or before the date the charges fall due).

The budgeting process established by statute provides a means by which a general health district may receive funds from townships and municipalities within the health district. The board of health adopts an annual appropriation measure and certifies it to the county auditor, who certifies it to the county budget commission. The county budget commission is empowered to reduce any item within the appropriation measure, but not to increase any item or the aggregate of all items. R.C. 3709.28. The aggregate appropriation, as fixed by the county budget commission, less amounts available from the several sources of revenue available to the district, "shall be apportioned, by the auditor among the townships and municipal corporations composing the health district on the basis of taxable valuations in such townships and municipal corporations," as provided by statute. R.C. 3709.28; *see* R.C. 5727.84 (electric company and natural gas company tax value loss); R.C. 5727.86 (local government property tax replacement fund); *see also* R.C. 3709.30 (providing for the apportionment of additional amounts among townships and municipalities in the case of an epidemic). When the auditor makes the semiannual apportionment of funds, the auditor retains the amounts apportioned to the various townships and municipalities and pays them into the district health fund. R.C. 3709.28; *see* 1999 Op. Att'y Gen. No. 99-015, at 2-119 ("[m]oneys paid pursuant to R.C. 3709.28 fulfill the township's legal obligation to support the health district").

The amounts so apportioned among the townships and municipal corporations are levied within the ten-mill limitation and thus are limited by other demands upon inside millage. *See* R.C. 5705.05(C) (the general levy for current expenses within the ten-mill limitation includes "amounts necessary for boards and commissioners of health, and other special or district appropriating authorities deriving their revenue in whole or in part from the subdivision"); *see also* Ohio Const. art. XII, § 2 (no property shall be taxed "in excess of one per cent of its true value")

except under legislation providing for approval by a majority of the electors of the taxing district or provision of municipal charter); R.C. 5705.02-.04; R.C. 5705.07; 2005 Op. Att’y Gen. No. 2005-043, at 2-462 to 2-468. If the estimated amount of money necessary to meet the expenses of a general health district will not be forthcoming because the taxes within the ten-mill limitation will be insufficient, the board of health certifies the fact of the deficiency to the board of county commissioners, which is empowered to serve as a special taxing authority to place a tax levy upon the ballot. If the electorate approves the levy, a tax is levied on property within the health district. R.C. 3709.29; R.C. 5705.31(E); *see Village of South Russell v. Budget Comm’n*, 12 Ohio St. 3d 126, 465 N.E.2d 876 (1984); 2001 Op. Att’y Gen. No. 2001-013; 1999 Op. Att’y Gen. No. 99-015. The receipt of moneys from a tax levy may reduce the amounts apportioned among townships and villages to be obtained from inside millage.<sup>6</sup>

Thus, there are various statutory procedures for funding a health district, including procedures by which taxes levied on property within a township or municipality may be used to support the programs of the board of health. There is no express statutory authorization for a board of health to solicit from townships or municipalities contributions in excess of amounts determined under the budget process. *Cf.* 1992 Op. Att’y Gen. No. 92-029, at 2-110 (there is no statutory duty or grant of authority for a county agency providing children services to recruit or promote financial support for the purposes of the agency).

#### **Authority of the Board of Health of a General Health District to Accept Donations**

A board of health has certain express powers to seek and accept donations. R.C. 3709.282 authorizes a board of health to receive or give financial or other assistance in establishing and operating federal programs, and R.C. 3709.283 authorizes a board of county commissioners to give a health district financial or other assistance in establishing and operating health programs. Further, it has been found that, pursuant to R.C. 3709.36 and related provisions, a board of health “has the powers formerly conferred upon the board of health of a municipal corporation by the predecessor provisions of R.C. 9.20<sup>7</sup> to receive by gift, devise, or bequest moneys, lands, or other properties, for the benefit of the board, and to hold and apply the properties according to the terms of the gift, devise, or bequest.” 1989 Op.

<sup>6</sup> The website of the Putnam County Health Department indicates that in 2006 the Putnam County tax levy provided forty percent of the receipts of the health district and no amounts were received from the townships and villages. *See* <http://www.putnamhealth.com/pcghannual2.htm>.

<sup>7</sup> As currently in effect, R.C. 9.20 authorizes the state and various political subdivisions and other entities to “receive by gift, devise, or bequest moneys, lands, or other properties, for their benefit or the benefit of any of those under their charge” and to “hold and apply the moneys, lands, or properties according to the terms of the gift, devise, or bequest.” It does not encompass health districts or boards of health. *See* 1989 Op. Att’y Gen. No. 89-032.



Att'y Gen. No. 89-032 (syllabus, paragraph 2) (footnote added); *see also* R.C. 3709.36.

It appears, accordingly, that the board of health of a general health district is authorized to accept and use donations that are lawfully made to it, whether by a private entity or by another governmental entity. Therefore, the board of health of a general health district may accept donations to support its programs, including programs to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy.<sup>8</sup>

The authority of a board of health to accept donations does not expand the substantive powers of a board of health beyond those conferred by statute. Rather, it permits a board of health to use donations only for the activities it is statutorily authorized to perform. *See generally Christy v. Comm'rs of Ashtabula County*, 41 Ohio St. 711, 713 (1885) (R.S. 20 [now R.C. 9.20] authorizes the state and various subdivisions to take, hold, and administer donations "for any purpose recognized by the statutes controlling the beneficiary"); 1989 Op. Att'y Gen. No. 89-074, at 2-341 ("a governmental agency may receive property and administer the same pursuant to R.C. 9.20 provided that the terms or conditions of the gift do not require the agency to exercise powers or perform duties and functions not otherwise accorded it by law"). Therefore, because the board of health of a general health district may not conduct a campaign to support the passage of a tax levy, it may not accept donations for that purpose.

#### **Authority of a Township to Donate Money to a General Health District**

We turn now to the question whether a township has authority to donate money to a health district for an informational program permitted under R.C. 9.03. Like a general health district, a township is a creature of statute, possessing only the powers it is granted by statute, either expressly or by necessary implication. *See,*

<sup>8</sup> The fact that a board of health is prohibited by R.C. 9.03 from using public funds to conduct a campaign to support or oppose the passage of a levy indicates that any contributions the board might receive could not be used for a levy campaign, thereby rendering the campaign contribution requirements set forth in R.C. Chapter 3517 inapplicable. *See, e.g.,* R.C. 3517.01(B)(5) (for purposes of R.C. 3517.01, 3517.08-.14, 3517.99, and 3517.992, "[c]ontribution" is limited to a payment or other thing of value "made, received, or used for the purpose of influencing the results of an election"); R.C. 3517.092(D)(1) ("[n]o public employee shall solicit a contribution from any person while the public employee is performing the public employee's official duties or in those areas of a public building where official business is transacted or conducted"); R.C. 3517.10(A), (E) (campaign contribution disclosure requirements apply to contributions or expenditures in connection with the nomination or election of any candidate or in connection with any ballot issue or question).

*e.g.*, *Hopple v. Trustees of Brown Township*, 13 Ohio St. 311, 324 (1862).<sup>9</sup> Funds of the township are public funds, held in trust for the benefit of the public. Public funds may be expended only by clear authority of law. *See State ex rel. Smith v. Maharry*, 97 Ohio St. 272, 119 N.E. 822 (1918) (syllabus, paragraph 1) (“[a]ll public property and public moneys ... constitute a public trust fund .... Said trust fund can be disbursed only by clear authority of law”). Any doubt as to the authority to expend public funds must be resolved against the expenditure. *State ex rel. A. Bentley & Sons Co. v. Pierce*, 96 Ohio St. 44, 117 N.E. 6 (1917) (syllabus, paragraph 3); *State ex rel. Locher v. Menning*, 95 Ohio St. 97, 115 N.E. 571 (1916); 2002 Op. Att’y Gen. No. 2002-031, at 2-207.<sup>10</sup>

Although the territory of a township is included within a general health district, the township and health district are separate political subdivisions. There is no general authority for one political subdivision to donate money to another political subdivision. A township may make a donation of public funds only pursuant to clear statutory authority, as required for any expenditure of public funds. *See generally* 1988 Op. Att’y Gen. No. 88-018 (syllabus) (a county has no authority to deposit sales and use tax proceeds into a revenue sharing fund from which moneys are distributed to townships and municipalities within the county).

The donation of public money is further limited by the fact that the use of certain funds is restricted by statute or constitution. Donations may be made only from funds that are available to be expended as donations in particular circumstances. *See, e.g.*, Ohio Const. art. XII, § 5; R.C. 5705.09; R.C. 5705.10;

<sup>9</sup> Townships have statutory power to adopt a limited home rule government under R.C. Chapter 504. This opinion does not consider the powers of a township that has adopted such a government. *See, e.g.*, R.C. 504.04; 2005 Op. Att’y Gen. No. 2005-042; note 10, *infra*.

<sup>10</sup> You have asked about the authority of a township or similar governmental entity to donate money to a health district. This opinion considers only the authority of a township that has not adopted a limited home rule government under R.C. Chapter 504. Because each type of governmental entity is governed by different provisions of law, it is necessary to consider each type of entity separately, though many of the same general principles may apply. *See, e.g.*, 2002 Op. Att’y Gen. No. 2002-031, at 2-206 n.1; 1991 Op. Att’y Gen. No. 91-071 (authority of township, county, or municipality to contribute money to a community improvement corporation). In particular, a city or village is not restricted to powers granted by statute, but has constitutional powers that permit it to make a donation to another public body upon a determination that the making of a donation constitutes a public municipal purpose. *See, e.g.*, *Bazell v. City of Cincinnati*, 13 Ohio St. 2d 63, 233 N.E.2d 864 (1968); 1991 Op. Att’y Gen. No. 91-071, at 2-338 (a municipal corporation may make a contribution of public funds “if the legislative authority of the municipal corporation, in the reasonable exercise of its discretion, determines that the making of a contribution constitutes a municipal public purpose”); *see also* note 3, *supra* (definition of “political subdivision” in R.C. 9.03 excludes charter municipalities).

2006 Op. Att’y Gen. No. 2006-009, at 2-78 to 2-80; 2004 Op. Att’y Gen. No. 2004-047; 2002 Op. Att’y Gen. No. 2002-031, at 2-207 n.2; 2000 Op. Att’y Gen. No. 2000-048; 1999 Op. Att’y Gen. No. 99-030, at 2-203 (“an ADAMH board may expend for the promotion of a tax levy only moneys that are available for that purpose”); note 4, *supra*.

Townships have express statutory authority to make donations in various circumstances. For example, R.C. 505.707 authorizes a board of township trustees to “appropriate from the township general revenue fund moneys not appropriated for any other purpose to an organization that the board determines serves a community purpose and that is exempt from federal taxation under subsection 501(a) and described in subsection 501(c)(3)” of the Internal Revenue Code. *See* 26 U.S.C.A. § 501(a), (c)(3) (West Supp. 2007); 2002 Op. Att’y Gen. No. 2002-031. R.C. 505.707 does not, however, authorize a township to make donations to other governmental bodies. *See also, e.g.*, R.C. 505.102 (a board of township trustees may sell, lease, or transfer real property to a nonprofit senior citizens’ organization); R.C. 505.108 (sale or donation to public agency, nonprofit organization, or tax exempt entity of property recovered by township police if it remains unclaimed); R.C. 505.58 (“[a] board of township trustees may expend money from the general fund to make contributions to convention and visitors’ bureaus operating within the county in which the township is located”); R.C. 505.701 (a board of township trustees may give financial or other assistance to a community improvement corporation to defray its administrative expenses and may purchase real property for the community improvement corporation); R.C. 505.702 (a board of township trustees may appropriate money for neighborhood crime watch programs); R.C. 505.704 (a board of township trustees may participate in and contribute to a nonprofit corporation that consists of units of government and is established for the purpose of regional cooperation and improvement).

There are a number of statutes that authorize a township to make donations or provide favorable treatment to other political subdivisions, but it does not appear that any of these statutes authorizes the precise sort of donation about which you have inquired. For example, R.C. 505.70(A) states that the trustees of any township “may participate in, give financial assistance to, and cooperate with other agencies or organizations, either private or governmental, in establishing and operating any federal program enacted by the congress of the United States, and for such purpose may adopt any procedures and take any action not prohibited by the constitution of Ohio and not in conflict with the laws of this state.” Under this provision, a township may give financial assistance to a health district, but only in establishing and operating a federal program. *See also* R.C. 3709.282. R.C. 505.70(A) does not appear to empower a township to donate money to support an informational program about a health district tax levy. Division (B) of R.C. 505.70 authorizes a board of township trustees to give financial assistance to public and nonprofit private agencies in establishing and operating programs to provide necessary social services to meet the needs of older persons, but does not authorize financial assistance for an informational program about a health district tax levy. *See* 1987 Op. Att’y Gen. No. 87-051; *see also* R.C. 505.10(A)(5) (“[w]hen a township has title to real property,

the board of township trustees, by resolution, may authorize the transfer and conveyance of that property to any other political subdivision of the state upon such terms as are agreed to between the board and the legislative authority of that political subdivision”); R.C. 505.57 (a board of township trustees may pay lodging excise tax proceeds to a school district that contains a tax exempt state-owned lodge if the existence of the lodge creates a serious financial burden on the district); R.C. 505.703 (a board of township trustees may appropriate money to a county office of economic development); R.C. 505.705 (a board of township trustees may appropriate money to another political subdivision for water or sewer purposes).

Thus, a township may donate public money to the board of health of a general health district only if the township has statutory authority to make such a donation and funds that are available for such a purpose. Our research has disclosed no statute that provides clear authority for a township to donate to a general health district money to support a program to provide information about the health district’s finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy. Accordingly, it appears that a township is not authorized to make such donations and, correspondingly, that a board of health is not permitted to solicit such donations from a township.

The conclusion that a township is without authority to donate funds to a board of health for an informational program is consistent with the fact that, as discussed above, there is a statutory system for funding a health district that provides for costs to be appropriated among the political subdivisions contained within the district and the persons owning property within the district in a manner that the General Assembly has determined.<sup>11</sup> Donations from townships are not made part of the funding system. *Cf., e.g.,* R.C. 343.01(B) (“[a] county participating in a joint [solid waste management] district may contribute lands or rights or interests therein, money, other personal property or rights or interests therein, or services to the district,” and the agreement creating the district shall specify these contributions).

We conclude, accordingly, that a township may donate public money to the board of health of a general health district only if the township has statutory authority, either express or necessarily implied, to make such a donation. Existing statutes do not provide authority for a township to donate to the board of health of a general

<sup>11</sup> The passage of a health district tax levy, while it would increase taxes on property within the health district (including property within the territory of a township included within the district), might reduce the amount apportioned to a township under R.C. 3709.28 to be paid from inside millage, thereby increasing the amount of inside millage available for other purposes. Thus, a township might have its own interest in providing voters with information about the general health district levy and the manner in which it would impact the township and might, under R.C. 9.03, operate its own informational program. If, as in the Putnam County General Health District in 2006, no township or village inside millage is provided for health district purposes, there could be no such reduction, and it appears unlikely that passage of a health district levy would affect the finances of particular townships or villages. See note 6, *supra*.

health district money to support a program to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy. Therefore, the board of health of a general health district may not solicit from a township donations for this purpose.

### **Conclusions**

For the reasons discussed above, it is my opinion, and you are advised, as follows:

1. Under R.C. 9.03(C), the board of health of a general health district is prohibited from using public funds to publish, distribute, or otherwise communicate information that supports or opposes the passage of a levy or bond issue or to compensate any employee for time spent on any activity to influence the outcome of an election for the passage of a levy or bond issue, but is permitted to use public funds to compensate an employee for attending a public meeting to present information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy or bond issue, even though the levy or bond issue is discussed or debated at the meeting. Therefore, the board of health of a general health district is not permitted to conduct a campaign to support the passage of a tax levy, but may conduct a program to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of the levy.
2. The board of health of a general health district may accept donations to support its programs, including programs to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy.
3. A township may donate public money to the board of health of a general health district only if the township has statutory authority, either express or necessarily implied, to make such a donation. Existing statutes do not provide authority for a township to donate to the board of health of a general health district money to support a program to provide information about the health district's finances, activities, and governmental actions in a manner that is not designed to influence the passage of a levy. Therefore, the board of health of a general health district may not solicit from a township donations for this purpose.