

2934.

AMOUNT EXPENDED FOR SALARIES OF DEPUTIES AND OTHER EMPLOYEES OF A COUNTY OFFICE IS LIMITED TO THE AMOUNT APPROPRIATED FOR FISCAL YEAR.

## SYLLABUS:

*The amount expended by a county office for salaries of deputies, assistants and other employes is fixed by the appropriation measure passed by a resolution of the county commissioners at the beginning of the fiscal year and the amount of such expenditures is limited to the amount appropriated.*

COLUMBUS, OHIO, November 11, 1925.

HON. H. D. LEASE, *Prosecuting Attorney, Kenton, Ohio.*

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

"I would like very much to have your opinion as to how deputies and clerks in county offices will be paid under Amended Substitute Senate Bill No. 94, since this new law repeals original section 2980 G. C., which made it necessary for county officers to ask the county commissioners on the first Monday of November of each year for an allowance to be set apart as a fee or salary fund for each individual office out of which salaries of deputies and clerks were to be paid for the coming year.

"Now the only thing that I can find relative to the payment of clerk hire is the amended section 2987 G. C., which says that deputies, etc., shall be paid from the appropriate county fund or funds, upon the warrant of the county auditor. And I do not find any provision for having any particular or specified amount set apart for the use of any one office.

"Does this mean that the amounts expended by an office as clerk hire is no longer fixed by the county commissioners and that there is no limitation as to the amount that an office can use, or is there some other way provided that takes the place of section 2980 G. C. heretofore followed?

"I assure you that I will appreciate an early reply and your opinion as the time is drawing near (Nov. 2-25) when under the old law officials should make their applications for these funds, and I wish to be in a position to correctly advise them."

Prior to the enactment of amended substitute senate bill No. 94, section 2980 of the General Code provided for a statement of the probable amount necessary for deputies, assistants and other employes of the respective offices and further provides that the allowances for such deputies, assistants and other employes should be filed with the county auditor who transferred the amounts fixed by the commissioners from the general county fund to a separate county fund for each of said offices.

The above bill repealed section 2980 and substituted in its stead the action taken under section 5 of this bill.

Section 5 of senate bill No. 94, known as section 5649-3g, found in 111 O. L. page 374, provides as follows:

"At the beginning of each fiscal year, the county commissioners of every county, the board of education of every school district, including county school districts, the council of or other legislative authority of every mu-

municipal corporation, including charter municipalities, the trustees of every township, and the governing board or body of every other type of political subdivision or taxing district authorized by law to levy taxes or expend public funds, shall make appropriations classified for the several purposes for which expenditures are to be made for and during the said fiscal year, from the funds of such county, school district, municipal corporation, township, or other political subdivision or taxing district."

Section 2987 of the General Code, which is a part of the same bill, provides as follows:

"The deputies, assistants, clerks, bookkeepers and other employes of such office shall be paid from the salary fund of the office in which they are employed, upon the warrant of the county auditor."

This section taken together with section 5649-3g as quoted, is the only one relating to the payment of the salaries of deputies, assistants and other employes.

Under section 5649-3g of the General Code, the county commissioners at the beginning of the fiscal year shall make appropriations classified for the several purposes for which expenditures are to be made for and during said fiscal year from the funds of such county. By such appropriation the amount which can be expended during a fiscal year for the salaries of deputies, assistants and other employes is fixed by the county commissioners and is in the nature of an allowance as formerly required under section 2980 of the General Code.

Of course, this appropriation may be changed from time to time thereafter as provided in section 5649-3h, but until such appropriation resolution is amended the amount which may be expended by any county office is limited to the amount which is appropriated by the county commissioners for such use.

Respectfully,

C. C. CRABBE,  
*Attorney General.*

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2935.

FUNDS RECEIVED BY A MUNICIPALITY FROM THE EARNINGS OF A WATERWORKS OR ELECTRIC LIGHT SYSTEM ARE TO BE REGARDED AS RECEIVED FROM "PUBLICLY OPERATED" PUBLIC UTILITIES AS REFERRED TO IN SECTION 5660 G. C.

*SYLLABUS:*

*The funds created by the earnings of a system to distribute water, electric light, etc., to a municipality are to be regarded as received from "publicly operated" public utilities as referred to in section 5660, and as amended by the 86th General Assembly, notwithstanding the municipality may purchase the commodity from private parties or other municipalities.*

COLUMBUS, OHIO, November 11, 1925.

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

GENTLEMEN:—In your recent communication you request my opinion upon the following: