

OPINION NO. 65-121**Syllabus:**

1. A general health district as provided for in Chapter 3709, Revised Code, is not a part of municipal or county government.
2. The reimbursement of funds expended for salaries of certain employees of the general health district under Section 3709.32, Revised Code, does not place these employees under the purview of Section 143.29, Revised Code.
3. Employees of a general health district are not eligible for vacation benefits under Section 325.19, Re-

vised Code, since the general health district is not a part of county service.

To: Chester W. Goble, Auditor of State, Columbus, Ohio
By: William B. Saxbe, Attorney General, July 9, 1965

I have before me your request for my opinion which states:

"In the course of examinations by this office of the proceedings of various county health districts, it has come to my attention that some county boards of health do not follow the provisions of Section 143.29, Revised Code, in granting sick leave benefits to their various employees. Similarly, the schedule of vacation allowances set forth in Section 325.19, Revised Code, is not being followed in the granting of vacation pay to employees of a county general health district.

"Your opinion is, therefore, respectfully requested as to whether a general health district is required to follow the provisions of Section 143.29, Revised Code, in granting sick leave, or the provisions of Section 325.19, Revised Code, in determining paid vacation allowances."

Section 143.29, Revised Code, states:

"Each full-time employee, whose salary or wage is paid in whole or in part by the state, and each full-time employee in the various offices of the county service and municipal service, and each full-time employee of any board of education, shall be entitled for each completed month of service to sick leave of one and one-fourth work days with pay. Employees may use sick leave, upon approval of the responsible administrative officer of the employing unit, for absence due to illness, injury, exposure to contagious disease which could be communicated to other employees, and to illness or death in the employee's immediate family. Unused sick leave shall be cumulative up to ninety work days, unless more than ninety days are approved by the respon-

sible administrative officer of the employing unit. The previously accumulated sick leave of an employee who has been separated from the public service may be placed to his credit upon his re-employment in the public service. An employee who transfers from one public agency to another shall be credited with the unused balance of his accumulated sick leave. Provisional appointees or those who render part-time, seasonal, intermittent, per diem, or hourly service shall be entitled to sick leave for the time actually worked at the same rate as that granted full-time employees. The responsible administrative officer of the employing unit may require the employee to furnish a satisfactory affidavit that his absence was caused by illness due to any of the causes mentioned in this section. This section shall be uniformly administered as to employees in each agency of the state government.

"This section does not interfere with existing unused sick leave credit in any agency of government where attendance records are maintained and credit has been given employees for unused sick leave."

This section requires an employee to be paid in whole or in part by the state, or be an employee of the county service or municipal service, or be an employee of any board of education in order to be eligible for sick leave benefits as set out therein.

Chapter 3709, Revised Code, establishes the general health districts, but I do not find any provision which would place these districts in any of the above categories. Section 3709.01, Revised Code, states in applicable part:

"The state shall be divided into health districts. Each city constitutes a health district and shall be known as a 'city health district.'

"The townships and villages in each county shall be combined into a health district and shall be known as a 'general health district.'

"* * * * * * * * * *"

In Opinion No. 4244, Opinions of the Attorney Gen-

eral for 1932, page 549, at page 552, the then Attorney General stated:

"It is therefore apparent that a general health district is a separate and distinct department or branch of the state sovereignty and that the legislature has placed no authority, jurisdiction or control over it in the county commissioners."

My predecessor in office stated in Opinion No. 1302, Opinions of the Attorney General for 1960, page 298, at 301:

"In accordance with the above, I am of the opinion that a city health district and a general health district are each separate and distinct agencies of government and not a part of municipal or county government."

I concur in the above and find that a general health district as set out in Chapter 3709, Revised Code, is not a part of municipal or county government.

The question next to be resolved is whether the employees of the general health district are paid in whole or in part by the state. Section 3709.28, Revised Code, provides that expenses of the general health district are paid by semi-annual allocation by the county auditor. However, Section 3709.32, Revised Code, states:

"When any general or city health district has been organized and has employed for full or part time service a health commissioner, the chairman of the board of health, or the principal executive officer of the health department as the case may be, shall, semiannually, on the first day of January and July, certify such fact to the director of health, stating the salary paid to such commissioner, and to the public health nurse and clerk during the preceding six months. If such board of health or health department has complied with the orders and regulations of the department of health and has truly and faithfully complied with sections 2923.18, 3701.10, 3701.29, 3707.08, 3707.14, 3707.16, 3707.47, and 3709.01 to 3709.36, inclusive, of the Revised Code, the director shall indorse such facts on the certificate and

shall transmit the certificate to the auditor of state, who shall thereupon draw a voucher on the treasurer of state to the order of the custodian of the funds of such district, payable out of the general revenue fund, in an amount equal to one half of the amount paid by the board of health or health department to such commissioner, public health nurse, and clerk, during such semi-annual period. If the amount paid by such board of health or health department during any six months is in excess of two thousand dollars, the amount to be paid by the auditor of state shall be one thousand dollars, and no payment shall be made unless the certificate of the board of health or health department has been indorsed by the director."

In considering whether or not such amount is wages paid by the state, my predecessor stated in Opinion No. 1302, supra:

"It is true that Section 3709.32, Revised Code, provides for the state to reimburse general and city health commissioner, a public health nurse, and a clerk. The total amount of this reimbursement is \$1,000.00. This appears to me to be at most an indirect payment to these employees. The money does not go directly to the employees but to the general funds of the health district after these employees have been paid. Thus, this seems to be a formula for state financial aid to health districts rather than payment of salary 'in whole or in part' to an employee, and could not be construed to put such employees within the purview of Section 143.29, Revised Code."

I concur with the above opinion.

Your request also asks about vacation allowances as set out in Section 325.19, Revised Code. That section applies to employees "in the several offices and departments of the county service". Since I concluded above that a general health district is not a part of county government, this section does not apply to employees of a general health district.

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

1. A general health district as provided for in

Chapter 3709, Revised Code, is not a part of municipal or county government.

2. The reimbursement of funds expended for salaries of certain employees of the general health district under Section 3709.32, Revised Code, does not place these employees under the purview of Section 143.29, Revised Code.

3. Employees of a general health district are not eligible for vacation benefits under Section 325.19, Revised Code, since the general health district is not a part of county service.