

2233.

APPROVAL, NOTES OF KEY RIDGE RURAL SCHOOL DISTRICT, BELMONT COUNTY, OHIO—\$1,500.00.

COLUMBUS, OHIO, January 29, 1934.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2234.

COUNTY COMMISSIONERS—UNAUTHORIZED TO EXPEND PUBLIC FUNDS FOR LEASING LANDING FIELD.

SYLLABUS:

A board of county commissioners has no authority to expend public funds for the leasing of a landing field.

COLUMBUS, OHIO, January 29, 1934.

HON. JOHN H. HOUSTON, *Prosecuting Attorney, Georgetown, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

“The commissioners of this county have asked me for advice on whether they have authority to expend public funds for the leasing of a landing field near the village of A., this county, the said leased land to be used as an aviation landing field and to be known as A. Municipal Aviation Port and to be improved through the use of CWA funds. I was not able to find any authority of law for such an expenditure. However, in recent months there has been so many changes that I thought perhaps best to write to you to find out whether you knew of such authority.”

It is well settled that a board of county commissioners, being purely a creature of statute, has only such powers as are expressly conferred upon it by statute, and such implied powers as are necessary to carry into effect the powers expressly granted. *Elder vs. Smith*, 103 O. S. 369 at 370; *Gorman vs. Heuck*, 41 O. App. 453.

After an examination of the statutes, I am unable to find any authority for county commissioners to expend public funds for the leasing of a landing field. Article X, section 5, of the Constitution of Ohio, reads as follows:

“No money shall be drawn from any county or township treasury, except by authority of law.”

In an opinion to be found in Opinions of the Attorney General for 1927, Vol. III, page 1946, it was held as disclosed by the syllabus:

"A board of county commissioners, not being authorized by statute so to do, may not lawfully purchase land to be used as an airport and may not issue bonds for such purpose."

While that opinion has to do with the purchase of land, rather than the leasing of land as is the situation in the present case, I am nevertheless of the view that this opinion is dispositive of your present question.

It is to be noted that section 3939 of the General Code, relating to the powers of municipal corporations, has a specific provision for the purchase or condemnation of land necessary for landing fields for aircraft and transportation terminals. It would seem to follow that since the legislature has not expressly given the county commissioners authority to purchase or lease lands for landing fields for aircraft that such authority does not exist.

It is therefore my opinion, in specific answer to your question, that a board of county commissioners has no authority to expend public funds for the leasing of a landing field.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

2235.

BONDS—COUNTY COMMISSIONERS UNAUTHORIZED TO EXPEND PROCEEDS OF POOR RELIEF BONDS FOR MATERIALS USED IN COUNTY PUBLIC IMPROVEMENTS—PROPER USE OF SUCH PROCEEDS.

SYLLABUS:

1. *The commissioners of a county are not authorized to expend any portion of the proceeds of bonds issued by such county under authority of section 3 of Amended Senate Bill No. 4 of the First Special Session of the 89th General Assembly, as amended by Senate Bill No. 63 of the 90th General Assembly, or under authority of section 7 of said Amended Senate Bill No. 4, as amended by House Bill No. 7 of the First Special Session of the 90th General Assembly, for the purchase of materials required to carry out public improvements in such county.*

2. *When authorized by the State Relief Commission, the county commissioners may themselves expend any part of such proceeds for furnishing work relief and direct relief to any or all persons in the county who are in a condition requiring it.*

COLUMBUS, OHIO, January 29, 1934.

HON. VERNON L. MARCHAL, *Prosecuting Attorney, Greenville, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication, which reads in part as follows:

"On behalf of the County Commissioners of this County, I would appreciate your opinion on the matter of the use of monies arising from the issuance of bonds for poor relief as provided under Senate Bill No. 63. The question of the County Commissioners is as to whether or not