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1. LAND OWNED BY STATE—ADMINISTERED BY DIVISION OF WILDLIFE, DEPARTMENT OF NATURAL RESOURCES—CHIEF REQUIRED TO MAKE FULL PAYMENTS FOR SCHOOL PURPOSES TO COUNTIES WHERE LAND IS STATE OWNED—YEAR 1955—SECTION 1531.27 RC.
2. CHIEF REQUIRED TO MAKE FULL ANNUAL PAYMENT FOR USE OF LAND ACQUIRED FOR THE YEAR IN WHICH LAND WAS ACQUIRED.

## SYLLABUS:

1. As provided in Section 1531.27, Revised Code, effective September 14, 1955, the Chief of the Division of Wildlife is required to make the full annual payments for school purposes to those counties wherein land is owned by the State of Ohio and administered by the division, for the year 1955.

2. As provided in Section 1531.27, Revised Code, the Chief of the Division of Wildlife is required to make the full annual payment for use of land acquired by the State of Ohio and administered by the division to the county wherein the land is located for the year in which the land was acquired.

Columbus, Ohio, March 21, 1956

Hon. A. W. Marion, Director, Department of Natural Resources  
Columbus, Ohio

Dear Sir:

I have before me your request for my opinion which presents the following questions:

“\* \* \* Does Section 1531.27, Revised Code of Ohio, effective September 14, 1955, require the Department of Natural Resources, Division of Wildlife, to pay the various County Treasurers the fee therein prescribed on lands which the Department of Natural Resources, Division of Wildlife, acquired during the calendar year 1955 even though the 1955 taxes and assessments have already been paid? \* \* \* Is the Department of Natural Resources, Division of Wildlife, required to pay the various County Treasurers the *entire* fee specified in Section 1531.27, Revised Code of Ohio, for the year 1955 on lands which it owned on January 1, 1955, or may the Department of Natural Resources, Division of Wildlife, pro-rate the 1955 payment and begin to pay the County Treasurers the *entire* fee commencing in the year 1956?”

Section 1531.27, Revised Code, enacted by the 101st General Assembly, effective September 14, 1955, reads as follows:

“The chief of division of wildlife shall pay to the treasurers of the several counties wherein lands owned by the state and administered by the division are situate *an annual amount determined in the following manner*: in each such county one per cent of the total value of such lands exclusive of improvements, as shown on the auditor’s records of taxable value of real property existing at the time when the state acquired the tract or tracts comprising such lands.

“Such payments shall be made from funds accruing to the division of wildlife from the sale of hunting or fishing licenses and federal wildlife restoration funds, and the allocation of amounts to be paid from such sources shall be determined by the wildlife council and approved by the director of natural resources.

“Such payments to the treasurers of the several counties shall be credited to the fund for school purposes within the school districts wherein such lands are situate.” (Emphasis added.)

The General Assembly has, by way of this section, provided for the disbursement by the Chief of the Division of Wildlife of an annual amount of money, from funds accruing to the Division of Wildlife from sales of hunting and fishing licenses and federal wildlife restoration funds, to the various counties of the state wherein lands are located which are owned by the state and administered by the division.

In considering the language of this section, I find no limiting or qualifying language which would delay its immediate effectiveness, or allow the paying of any amount other than that specifically provided to those counties wherein land is owned by the state and administered by the division during the year 1955.

The money to be paid pursuant to this section is designated merely as an annual amount, and the section is silent as to any particular period of use of such lands by which the amount is to be calculated. The section is also silent as to the time when the amount becomes actually payable. The term "annual" as defined in Webster's New International Dictionary, 2nd Edition, bears upon the question as follows:

"1. Reckoned by the term of a year; as, an *annual* stipend, tax, or value; \* \* \*

"2. Occurring once each year; yearly; as, *annual* gifts; an *annual* magazine."

An interpretation of the section in regard to the term "annual amount" may thus reasonably allow a holding that it refers to an amount which is to be paid once during each year, and to be determined upon the acquisition and administration of the lands by the Division of Wildlife.

The term "annual amount" in so far as it comprehends the payment which accrues during any particular period of time, must reasonably be considered to refer to the calendar year. The designation of a period other than the calendar year could produce difficult administrative problems of distribution and accounting so as to be contrary to any consideration of the probable legislative intent. In the absence of any express provision in the section, it must also follow that the actual day or days within a calendar year upon which payments are to be made are a matter of administrative discretion. I am therefore of the opinion that the Chief of the Division of Wildlife has the duty to make the payment of the proper amount for the year 1955 to all counties wherein there is land which is owned by the state and administered by the division; however, the Chief of the Division of Wildlife may determine the actual time of payment.

The inquiry also presents for consideration the situation in which lands are newly acquired during the year in which a payment is otherwise required by Section 1531.27, Revised Code, *supra*. Obviously the amount paid under this section is not a tax or assessment imposed upon the division such as may be levied against private property for the support of local government, so that the payment of any accrued taxes would discharge the duty of the division to pay the amount stated. The payment required by the section is specifically for the support of the various school districts where such lands are located and, in a measure, is a grant to these districts to augment funds derived from the general or special levies

against private property. It would be safe to assume that the General Assembly desired to make a contribution to those school districts where the land administered by the division has been exempted from taxation. I do not, however, find that the General Assembly has conditioned this annual payment upon the contingency that either the land has been exempted from taxation or the accrued taxes at the time of acquisition by the state have been paid.

The term "annual amount" merely suggests, as I discussed previously, that the payment is to be made each year by the Division of Wildlife. I am of the opinion that this payment is to be made when any such land is administered by the division during any calendar year irrespective of the period of time involved and thus the annual amount is to be paid during the year of acquisition.

For those reasons, therefore, it is my opinion that:

1. As provided in Section 1531.27, Revised Code, effective September 14, 1955, the Chief of the Division of Wildlife is required to make the full annual payments for school purposes to those counties wherein land is owned by the State of Ohio and administered by the division, for the year 1955.
2. As provided in Section 1531.27, Revised Code, the Chief of the Division of Wildlife is required to make the full annual payment for use of land acquired by the State of Ohio and administered by the division to the county wherein the land is located for the year in which the land was acquired.

Respectfully,  
C. WILLIAM O'NEILL  
Attorney General