

1654.

POOR RELIEF — COUNTY COMMISSIONERS RECEIVING FUNDS THEREFOR MAY ALLOCATE SAME TO BOARDS OF EDUCATION FOR RELIEF OF SCHOOL CHILDREN.

SYLLABUS:

Funds made available to a board of county commissioners for poor relief, under and by virtue of Section 1, of Amended Senate Bill No. 61, of the 90th General Assembly, may be allocated by said board of county commissioners to boards of education for providing relief for school children by authority of Section 1 of Senate Bill No. 64, of the 90th General Assembly.

COLUMBUS, OHIO, September 29, 1933.

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

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

“As per our telephone conversation of Tuesday, September 19th, regarding my question as to whether Section 2 of Amended Senate Bill 61 can be construed and read together with Section 9 of Senate Bill 63, that is, can the funds created by the county commissioners for poor relief, under Amended Senate Bill 61 with the approval of the State Relief Commission, out of the gasoline tax, be used in assisting various boards of education in the county, other than the county board, as set out in the second paragraph of Section 9 of Senate Bill 63?”

Sections 1 and 2 of Amended Senate Bill No. 61, of the 90th General Assembly, read as follows:

Sec. 1. “In addition to the purposes specified in sections 5527 and 5541 of the General Code, for which the proceeds of the gasoline taxes, allocated under existing law to counties and cities, may be expended, at any time prior to the first day of March, 1935, the whole or any part of the proceeds of the gasoline taxes allocated under existing law to counties and cities, hereafter received may, by action of the county commissioners of any county or the council of any city, with the approval of the state relief commission, be expended for work or poor relief within such subdivision. The taxing authority of such subdivision shall adopt and submit to the state relief commission, a statement in such form as the commission shall prescribe, of the amount proposed to be so expended and the particular type or types of relief proposed to be rendered. Two or more copies of such statement shall be filed in the office of the fiscal officer of the subdivision for public inspection not less than five days before its adoption by the taxing authority; and such taxing authority shall hold one or more public hearings thereon, of which notice shall be given not less than five days previous to the date thereof, by publication in the official publication of such subdivision or in a newspaper having a general circulation in such subdivision.”

Sec. 2. “At any time prior to the first day of March, 1935, the county commissioners of any county may, upon approval of the state

relief commission, transfer to cities or townships in such county, all or any part of the proceeds of the gasoline taxes hereafter collected and allocated under existing laws to the county, such funds to be used for work or poor relief in the subdivision to which they are allocated and for no other purpose."

Section 9 of Senate Bill No. 63, of the 90th General Assembly, reads in part as follows:

"The county commissioners of any county at any time prior to the first day of March, 1935, upon the request of any board of education other than the county board of education in such county, and upon proof to their satisfaction that such board is without funds available for the relief of school children, may supply such board with funds as approved by the state relief commission in any amount, which funds may be paid out of the emergency relief fund, or from the county poor relief excise fund, and shall be expended by such board of education for the relief of school children, and for no other purpose."

From the plain terms of Section 9 of Senate Bill No. 63, supra, it is manifest that the only authority extended to boards of commissioners thereby, is to supply boards of education with funds for the relief of school children from either the "emergency relief fund" or the "county poor relief excise tax." The funds with which Sections 1 and 2 of Amended Senate Bill No. 61, supra, deals are neither the "emergency relief fund" nor the "county poor relief excise fund."

The "emergency relief fund" is defined by Section 8 of said Senate Bill No. 63, as follows:

"The proceeds of the sale of any such bonds or notes, heretofore or hereafter issued under section 3 of section 7 of this act by any county (meaning bonds for poor relief purposes) shall be placed in a special fund to be denominated the 'emergency relief fund,' * * *" (Parenthesis the writers.)

The "county poor relief excise fund" is defined by Section 5 of Amended Senate Bill No. 4, of the first special session of the 89th General Assembly, as follows:

"The funds collected under the provisions of Section 4 of this act (meaning the proceeds of an excise tax imposed on the intrastate business of public utilities) shall be credited to a fund to be known as the 'county poor relief excise fund.'" (Parenthesis the writer's.)

It is clear that so far as the authority extended to county commissioners to supply boards of education with funds for the relief of school children, as is done by Section 9 of Senate Bill No. 63, supra, is concerned, they are not authorized to supply boards of education with funds from the proceeds of the gasoline tax allocated to the county by authority of Sections 1 and 2 of Amended Senate Bill No. 61, supra.

Your inquiry, however, calls for consideration of other provisions of law. Section 1 of Senate Bill No. 64, of the 90th General Assembly, reads as follows:

"When the board of education of any city, village, exempted village or rural school district is satisfied that a child compelled to attend school is unable to do so because in want of shoes, clothing, medical attention, or other necessities, and those upon whom the child is dependent are unable to support or care for themselves and the child, such board of education at any time prior to December 31, 1935, may provide such necessities as may enable the child to attend school.

Upon satisfactory proof to the county commissioners that the board of education of any of the above mentioned school districts has no funds over and above all other school operating expenses available to meet such needs, the county commissioners may allocate to such boards of education funds for the purpose of providing relief for school children from the emergency relief fund *or other fund available for the relief of dependent persons.*" (Italics the writer's.)

As the funds allocated to a county by authority of Section 1 of Amended Senate Bill No. 61, *supra*, may be used for the relief of dependent persons, with the approval of the state relief commission, such funds clearly may be allocated to boards of education by virtue of Section 1 of Senate Bill No. 64, quoted above, as these funds would come within the class of funds described in the statute as "other funds available for the relief of dependent persons."

I am therefore of the opinion, in specific answer to your question, that funds made available to a board of county commissioners for poor relief under and by virtue of Section 1, of Amended Senate Bill No. 61, of the 90th General Assembly, may be allocated by said board of county commissioners to boards of education for providing relief for school children by authority of Section 1 of Senate Bill No. 64, of the 90th General Assembly.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1655.

OHIO STATE UNIVERSITY—"FORM 2097" USED IN SCORING INTELLIGENCE TESTS UNDER STANFORD REVISION OF BINET-SIMON SCALE IS NOT VIOLATION OF COPYRIGHT ON "RECORD BOOKLET."

SYLLABUS:

The printing and use by Ohio State University of "Form 2097" for the recording and scoring of individual intelligence tests conducted in accordance with the Stanford Revision of the Binet-Simon Scale, as expounded by Professor Lewis M. Terman in his textbook "The Measurement of Intelligence", does not constitute an infringement of any copyright rights that the publishers of a similar record blank known as "Record Booklet" may have.

COLUMBUS, OHIO, September 29, 1933.

DR. GEORGE W. RIGHTMIRE, *President, Ohio State University, Columbus, Ohio.*

DEAR DR. RIGHTMIRE:—This will acknowledge receipt of a communication from Dr Francis Maxfield, Professor in the Department of Psychology, con-