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WELFARE, COUNTY DEPARTMENT OF—ESTABLISHED UNDER SECTION 2511-1 G. C.—VOUCHERS FOR EXPENDITURES DO NOT REQUIRE COUNTY COMMISSIONERS' APPROVAL.

## SYLLABUS:

When a county department of welfare has been established in any county, pursuant to Section 2511-1 General Code, vouchers for expenditures by such department do not require the approval of the county commissioners.

Columbus, Ohio, March 11, 1946

Hon. D. Deane McLaughlin, Prosecuting Attorney  
Canton, Ohio

Dear Sir:

I have before me your letter, requesting my opinion and reading as follows:

“Your opinion is requested on the matters contained in the following paragraphs.

On November 30, 1945, pursuant to House Bill 140, also known as General Code Section 2511-I to 11, Stark County Board of Commissioners by resolution established a County Department of Welfare, with all the powers, provided for said department by law. Heretofore, all the administration of relief had been handled by the Stark County Board of Commissioners, and all relief bills had been approved by the Stark County Commissioners, in accordance with General Code Section 2572.

Said Section 2572 provides that a bill or voucher for payment *from any fund controlled by the Commissioners* must be handled in the manner set out in said section.

In view of the provisions of Section 2511-I to 11, and of the provisions in Section 2572, we ask your opinion as to whether or not the bills or vouchers of the newly created Department of Welfare must be approved for payment by the County Commissioners under Section 2572. The question seems to hinge on whether the appropriation made by the Commissioners to the new Department of Welfare is a fund under the control of the Commissioners.

It is our thought that this question may have been raised in another county, or by the Department of Welfare, and its solution will greatly aid other counties as well as our own in formulating policies under the newly created County Department of Welfare."

By Sections 2511-I to 2511-II General Code, effective September 9, 1943, provision was made for the establishment of what is designated as a "county department of welfare." Section 2511-I provides in part as follows:

"The county commissioners of any county may by a resolution which has been unanimously adopted, establish a county department of welfare which, when so established, shall be governed by the provisions of this act. \* \* \* The county department of welfare *shall consist of a county director of welfare* appointed by the board of county commissioners, *and such assistants and other employees as may be deemed necessary for the efficient performance of the welfare service of the county.* \* \* \*"

(Emphasis added.)

The powers and duties of the director are outlined in part in Section 2511-2 General Code, which provides in part as follows:

"Under the direction of the board of county commissioners, the county director of welfare shall have full charge and control of the county department of welfare. \* \* \* The director,

with the approval of the board of county commissioners, shall appoint all necessary assistants, superintendents of institutions, if any, under the jurisdiction of the department, and all other employees of the department, excepting that the superintendent of each such institution shall appoint all employes therein.  
\* \* \*”

A reading of the above section alone might leave the impression that the director is merely the executive officer of the board of county commissioners and that the supervision of the department of welfare is lodged in the board. However, we should not overlook the provision of Section 2511-1 to which I have already referred, that the county department of welfare “*shall consist of a county director*” and such assistants and other employes as may be deemed necessary.

I discussed this section in an opinion No. 130 rendered February 17, 1945, and pointed out that the words “direction of the board of county commissioners” did not alter the fact that the director was clearly to be the executive head of the department, the position of the commissioners being somewhat analogous to that of the council of a city whose duties are not administrative but are confined to passing measures regulating the various departments, and providing the funds for their operation.

Section 2511-4 General Code, expressly outlines the powers and duties of the department when established. It reads as follows:

“The county department of welfare shall have the following powers and duties:

(a) “*To be the ‘county administration’* for all the purposes of sections 1359-31 to 1359-45, both inclusive, of the General Code as now existing or as hereafter amended or supplemented.

(b) *To administer aid to the needy blind* as provided by sections 2965 to 2970, both inclusive, of the General Code, as now existing or as hereafter amended or supplemented.

(c) *To administer poor relief and burials* in so far as the administration of such relief and burials was heretofore imposed upon the board of county commissioners.

(d) To cooperate with state and federal authorities in any matter relating to public welfare and to act as the agent of such authorities if and to the extent and in the manner designated.

(e) *To submit an annual account of its work and expenses to the county commissioners and to the state department of public welfare at the close of each fiscal year.*

(f) *To exercise such powers and duties relating to public welfare as may be imposed upon the department by law, by resolution of the county commissioners, or by order of the governor when authorized by law to meet emergencies during war or peace. The county commissioners shall have authority to designate the county department of welfare to exercise and perform any additional welfare powers and duties which the commissioners may have, except as provided in this act.”* (Emphasis added.)

It will here be noted that such department takes over all the powers and duties which are by Section 1359-31 et seq. General Code, vested in the judge of the juvenile court as “county administration”, in reference to aid for dependent children as provided for in that and subsequent sections. Among the powers conferred upon the county administration and here transferred to the department of welfare is the authority found in Section 1359-35 General Code, to issue vouchers for the disbursement of funds applicable under that law to the aid of dependent children.

The administration of aid to the needy blind as provided by Sections 2965 to 2970 of the General Code, is committed to the county commissioners and it would appear to be the intention of the law in case a county department of welfare is established, to transfer to such department all the powers and duties of the county commissioners in that respect. The same may be said as to the administration of poor relief and burials.

The intention of the General Assembly to confer upon this department when established very broad powers, is emphasized by the language of Section 2511-6 General Code, which reads as follows:

“All powers and duties conferred by this act upon the county department of welfare, and by law imposed upon or vested *in any board, agency or department* are hereby transferred to and vested in the county department of welfare, when established.” (Emphasis added.)

There is nothing in the law which requires the county commissioners to establish such department, but in an opinion rendered by my immediate predecessor found in 1943 opinions Attorney General, page 696, it was held:

“If a county department of welfare is properly established by a board of county commissioners pursuant to Section 2511-1, General Code, such department may not thereafter be abolished by the board of county commissioners.”

There is a further provision in the statute relating to certain special funds that are to be administered by this department, which I deem significant. Section 2511-10 General Code, provides as follows:

“All moneys received by each county from the state, or from the federal government under the provisions of the social security act, or any act of congress of the United States, amendatory thereof or in substitution therefor, for aid to the blind, for aid to dependent children, or for any other welfare activity, shall be deemed appropriated for the purposes for which such moneys were received.”

Plainly the authority to expend these funds is vested in the director. If it should be considered that notwithstanding the manifest intention of the General Assembly to give the department of welfare when once established these very broad powers, the county commissioners were still left with the authority to approve or refuse to approve vouchers for all expenditures, the county department of welfare would simply become another name for the county commissioners, and the director would be a mere clerk under their complete control.

Section 2572 General Code, to which you refer, has been long in effect in substantially its present form. It provides as follows:

“A bill or voucher for payment of money from any fund controlled by the commissioners must be filed with the county auditor and entered in a book for that purpose at least five days before its approval for payment by the commissioners. When approved, the date thereof shall be entered on such book opposite the claim, and payment thereof shall not be made until after the expiration of five days after the approval has been so entered.”

This provision, as will be noted, is limited to any funds which are controlled by the commissioners, and in view of the sweeping provisions of the law which I have been discussing it appears to me clear that the control of the commissioners, so far as concerns funds appropriated for the operation of the county welfare department ends with their appropriation, and that it was the legislative intent to transfer to the welfare department all the powers of all of the departments whose duties the

department of welfare is authorized and required to take over, including the approval of vouchers for the expenditure of the funds appropriated or otherwise provided for the operation of such department.

In specific answer to your question it is my opinion that the bills and vouchers of the county department of welfare, when such department has been established pursuant to the provisions of Section 2511-1 General Code, do not require the approval for payment by the county commissioners.

Respectfully,

HUGH S. JENKINS,  
Attorney General