

OPINION NO. 86-100

Syllabus:

Revenue received by the county home superintendent or administrator which is derived from patient fees,

county home farm rent, and reimbursement from medicaid for medical care provided to county home patients, must be credited to the county home fund, a special fund established within the county treasury.

To: James S. Rapp, Hardin County Prosecuting Attorney, Kenton, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, December 10, 1986

I have before me your request for my opinion concerning revenue generated by the county home. In your letter, you state that certain moneys were derived from county home farm rent, patient fees and reimbursement from medicaid for medical care given to residents of the county home. In a subsequent conversation with my staff, you confirmed that none of the revenue was derived from the general tax levy. Specifically, you ask whether the revenue should be credited to an account in the county's general fund or to a special fund.

R.C. Chapter 5155 creates and governs the operation of the county home. Throughout the chapter, there are several references to the "county home fund." See, e.g., R.C. 5155.06 (proceeds from the sale of county home farm products must be placed in the county home fund); R.C. 5155.14 ("reserve" fund is to be kept separate from the county home fund). R.C. 5155.16 is of particular interest, providing that:

Annually, the superintendent or administrator of the county home shall submit to the board of county commissioners a report giving all statistical information for the year preceding the first day of the month shown by the record of residents of the home required by section 5155.07 of the Revised Code.

....
The report shall contain such other information as the board requires and an account of all moneys received by the superintendent or administrator for the sale of farm products, or from any other sources, and paid into the county treasury by him to the credit of the county home fund, such account to be properly itemized, showing dates of receipts, from whom and for what purpose, and dates of payment of such receipts into the county treasury. (Emphasis added.)

I believe it is apparent that, through this statute, the legislature has mandated that revenue which is generated by the county home or otherwise received by the superintendent or administrator of the county home be credited to the county home fund.

R.C. 5155.15 prescribes the use of revenue credited to the county home fund, providing:

The county auditor shall receive vouchers given by the board of county commissioners, and countersigned by its clerk to any person other than the commissioners themselves, for labor, provisions, medical attendance, or supplies of any kind furnished to the facility, and shall give the person a warrant on the county treasury for the proper amount. The treasurer shall pay such warrant from the county home fund, and the vouchers shall show the specific items allowed by the board, or shall be accompanied by a statement in writing showing the items.

R.C. 5155.13 further provides that the actual expenses of the county home superintendent or administrator in pursuing a resident who has left the home are to be paid from the county home fund. These provisions indicate that the legislature intended for revenue which is received by the county home superintendent or administrator to be used for a limited set of purposes, designed to further the operations of the county home. If the revenue were credited to the county's general fund, the money could be utilized by the board of county commissioners for virtually any proper purpose of the county. See generally 1981 Op. Att'y Gen. No. 81-035. Therefore, deposit of the revenue to the county's general fund would be improper.

My conclusion is also supported by the statutory language of R.C. Chapter 5155. It is a well-established rule of statutory construction that the legislature is presumed to have used terms intelligently and advisedly. Wachendorf v. Shaver, 149 Ohio St. 231, 78 N.E.2d 370 (1948); Watson v. Doolittle, 10 Ohio App. 2d 143, 226 N.E.2d 771 (Williams County 1967). Thus, it is significant that the General Assembly chose to use the word "fund" in R.C. Chapter 5155 with reference to the county home fund. The Revised Code contains the following definitions, applicable to "any statute that uses the terms in connection with state accounting or budgeting":

(A) "Account" means any record, element, or summary in which financial transactions are identified and recorded as debit or credit transactions in order to summarize items of a similar nature or classification.

(B) "Accounting procedure" means the arrangement of all processes which discover, record, and summarize financial information to produce financial statements and reports and to provide internal control.

(C) "Accounting system" means the total structure of records and procedures which discover, record, classify and report information on the financial position and operations of a governmental unit or any of its funds, balanced account groups, and organizational components.

....
(L) "Fund" means an independent fiscal and accounting entity with a self balancing set of accounts recording cash or other resources, together with all related liabilities, obligations, reserves, and fund balances which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special rules, restrictions or limitations.

R.C. 131.01. Although R.C. 131.01 is not directly applicable in this instance, since it deals with state, rather than county, accounting and budgeting procedures, it is evident from the foregoing that the terms "account" and "fund" are not synonymous. An "account" is a procedural device which segregates revenue within a "fund," for a particular purpose. See, e.g., 8 Ohio Admin. Code 117-1-02 ("[t]he general fund and the accounts within the general fund of each county shall be organized into the following..."); 8 Ohio Admin. Code 117-1-03 ("[t]he special revenue funds and the accounts within the special revenue funds of each county shall be organized into the following..."). Thus, in light of the references in R.C. Chapter 5155 to a "county home fund," rather than a "county home account," it is apparent that the legislature

intended for the revenue to be placed in a special fund rather than an account in the general fund.¹

This interpretation of R.C. Chapter 5155 also comports with the statutory scheme set out in R.C. Chapter 5705. Pursuant to R.C. 5705.09, each subdivision is required to establish certain funds for the deposit of its moneys, see R.C. 5705.01(A)(defining a county as a "subdivision"), including a special fund for each class of revenue derived from a source other than the general property tax for which the law prescribes a particular use, R.C. 5705.09(F).

The distribution of revenue to these funds is provided for by R.C. 5705.10:

All revenue derived from a source other than the general property tax and which the law prescribes shall be used for a particular purpose, shall be paid into a special fund for such purpose. All revenue derived from a source other than the general property tax, for which the law does not prescribe use for a particular purpose, including interest earned on the principal of any special fund, regardless of the source or purpose of the principal, shall be paid into the general fund.

In the instant case, none of the revenue in question was derived from the general property tax. Thus, pursuant to R.C. 5705.10, the revenue must be credited to a special fund if the law requires that the revenue be used for a particular purpose. As noted above, the purposes for which the county home fund may be used are prescribed by R.C. Chapter 5155. Thus, it is implicit that the use of the revenue which must be paid into the county home fund pursuant to R.C. 5155.16 is prescribed by law for those purposes set forth in R.C. 5155.13 and 5155.15. See generally 1969 Op. Att'y Gen. No. 69-015 (money received from a source other than the general property tax for the county board of mental retardation must be paid to a special fund pursuant to R.C. 5705.09). The revenue must, therefore, be credited to a special fund for these prescribed purposes.

In conclusion, it is my opinion, and you are hereby advised that revenue received by the county home superintendent or administrator which is derived from patient fees, county home farm rent, and reimbursement from medicaid for medical care provided to county home patients, must be credited to the county home fund, a special fund established within the county treasury.

¹ Although, pursuant to R.C. 5155.16, revenue received by the county home superintendent or administrator must be paid into the indicated special fund, the interest from from such revenue must be credited to the general fund of the county. See R.C. 135.351(A)(with certain exceptions not relevant herein, all interest earned on money included within the county treasury must be credited to the general fund of the county); R.C. 5705.10 ("interest earned on the principle of any special fund, regardless of the source or purpose of the principal, shall be paid into the general fund"); 1985 Op. Att'y Gen. No. 85-072 (interest earned on the bond retirement fund of a school district must be credited to the general fund of the school district). See generally 1985 Op. Att'y Gen. No. 85-067.