

OPINION NO. 70-100

Syllabus:

A county board of health does not have the authority to expend district health money to underwrite a survey of a county landfill study with the intent of paying the engineering fees.

To: J. Richard McMannis, Medina County Pros. Atty., Medina, Ohio
By: Paul W. Brown, Attorney General, July 31, 1970

Your request for my opinion asks whether a county board of health has authority to expend district health money to underwrite a survey of a county landfill study with the intent of paying the engineering fees.

The powers and duties of a district or county board of health are statutory, and the statutes which create them are the source and limit of their powers. 26 O. Jur. 2d, Health, Page 673, Section 13.

The powers and duties of a county board of health are embodied in Chapter 3707, Revised Code, and Section 3709.20, et seq., Revised Code.

Section 3709.21, Revised Code, which indicates the powers of a county board of health, provides in part:

"The board of health of a general health district may make such orders and regulations as are necessary for its own government, for the public health, the prevention or restriction of disease, and the prevention, abatement, or suppression of nuisances. * * *"

Section 3709.22, Revised Code, which details the duties of a county board of health, provides in part:

"Each board of health of a city or general health district shall study and record the prevalence of disease within its district and provide for the prompt diagnosis and control of communicable diseases. The board may also provide for the medical and dental supervision of school children, for the free treat-

ment of cases of venereal diseases for the inspection of schools, public institutions, jails, workhouses, children's homes, infirmaries, and county homes, and other charitable, benevolent, and correctional institutions. The board may also provide for the inspection of dairies, stores, restaurants, hotels, and other places where food is manufactured, handled, stored, sold, or offered for sale, and for the medical inspection of persons employed therein. The board may also provide for the inspection and abatement of nuisances dangerous to public health or comfort, and may take such steps as are necessary to protect the public health and to prevent disease.

"* * * * *"

Section 3709.28, Revised Code, provides for a district health fund. This section provides that a board of health shall adopt and certify to the county auditor an itemized appropriation measure based on the current expenses of such district. The current expenses are those necessary to carry out the statutory functions of the board.

I find that the powers and duties of a county board of health, as stated by Sections 3709.21 and 3709.22, supra, read with the provisions of Section 3709.28, supra, providing for the appropriation and expenditure of district health fund monies by a board of health, does not include the expenditure by a county board of health of such monies for underwriting a survey of a county landfill study with the intent of paying the engineering fee. The statutory function of such a board, the protection of the public health in its jurisdiction, cannot be construed to include such an expenditure.

It is therefore my opinion, and you are hereby advised, that a county board of health does not have the authority to expend district health money to underwrite a survey of a county landfill study with the intent of paying the engineering fees.