

ingly, approving this lease and I am herewith returning the same with my approval endorsed thereon and upon the duplicate and triplicate copies which are likewise herewith enclosed.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1843.

DEPENDENT CHILDREN — MONEYS PAID INTO COUNTY WELFARE BOARD FOR SUPPORT—SHOULD BE PAID INTO COUNTY TREASURY—REIMBURSEMENT—WHEN LUMP SUM PAID FOR FUTURE CARE AND SUPPORT—DEPOSITORY—SPECIAL FUND CREATED BY SECTION 5625-9 (f) G. C.

SYLLABUS:

1. *Moneys paid into the County Welfare Board for the support of dependent children, which moneys are collected from the parents of such children, should be paid into the county treasury to the credit of the general fund, such payment amounting to a reimbursement of the county fund for public funds expended for the care of dependent children.*
2. *When lump sum payment is made to the County Welfare Board for the future care and support of a dependent child, such fund should be paid into a special fund created under authority of Section 5625-9 (f), General Code, the fund being for the future care of such dependent child.*

COLUMBUS, OHIO, January 31, 1938.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

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

“Certain dependent children are committed by the Juvenile Court to the care and custody of the Welfare Board appointed by the county commissioners, as provided in Section 3092, General Code.

This board, through its employees, collects sums of money from the parents for the care of their children.

We respectfully request your opinion upon the following questions:

1. Should the money so collected be paid into the county treasury; or may the executive officer of the board place this money in the bank and disburse the same for the children's support?

2. In case a lump sum of money is paid to the Welfare board for the benefit of a certain child, should this money be paid into the county treasury and be credited to a special trust fund, or may it be placed in the bank in the name of the executive officer of the board, as trustee, and be disbursed by him?"

Under Section 3092, General Code, a county Welfare Board is appointed by the County Commissioners when a Children's Home has not been provided in that county, and when no contract has been entered into with another county for the care of dependent children of such county.

It is further provided by said section that the county Welfare Board shall have the same powers generally as trustees of Children's Homes duly constituted especially as to locating and visiting certain dependent children and providing for their care and support.

It is of course elementary that parents of minor children have a primary duty to support them. The law recognizes that children become public charges by being neglected, dependent or delinquent. The various counties in the State take care of such children either in Children's Homes, in private homes or in Children's Homes in another county, or are committed to the State of Ohio, Department of Public Welfare. A child is committed to the State Department of Public Welfare when it is found the counties cannot properly care for the child, through delinquency or feeble-mindedness or otherwise.

The Boards of Trustees of County Children's Homes are granted broad powers in the administration of such homes. However, in regard to money matters, the administration is limited to withdrawal of public funds from the county treasury only upon the same being properly vouchered to the County Auditor for him in turn to draw his warrant on the treasury of the county. The only provision that is found authorizing the board of trustees to control and use moneys in Section 3083, General Code, wherein it is provided that the board of trustees may accept and use a bequest for the best use of the Home. There is no statutory authority for the Trustees of a Children's Home to otherwise use public funds. All funds of course available for the administration of Children's Homes must be appropriated by the County Commissioners after the budget law provisions have been complied with.

Section 5625-9, General Code, provides for the funds to be established in the county treasury. Paragraph (f) of this section provides:

“(f) A special fund for each class of revenue derived from a source other than the general property tax, which the law requires to be used for a particular purpose.”

It is contemplated by this opinion that funds may be paid to the County Welfare Board as reimbursement to the county for expenses previously paid for dependent children and also funds paid in for support in the future by the county. In the case of reimbursement the funds would be paid into the county treasury and credited to the general fund of the county. In the case of funds paid in for the future support of a dependent child, the funds would be public funds to be expended for the particular purpose of caring for a dependent child.

Funds paid into the treasury in either of the above cases would be funds “derived from a source other than the general property tax.” The distinguishing feature is the reimbursement in one case and the other the prospective operation of the fund to care for a dependent child. In this latter case there is a particular purpose for which the fund is to be applied.

If the County Welfare Boards generally have the same powers as the Trustees of Children’s Homes, and the Trustees have no express authority to use public money directly for the care and support of county charges, it necessarily follows that the County Welfare Board has no such authority.

It is therefore my opinion, in view of the foregoing that when a County Welfare Board collects money from the parents of dependent children it should be paid into the county treasury to the credit of the general fund, but when a lump sum of money is paid to the County Welfare Board for the future support of a certain child, the same should be paid into the county treasury to the credit of a special fund created under authority of Section 5625-9 (f), General Code.

Respectfully,

HERBERT S. DUFFY,
Attorney General.