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ROAD MACHINERY, COUNTY—COUNTY COMMISSIONERS MAY CONTRIBUTE MACHINERY TO ORGANIZED SOIL CONSERVATION DISTRICT—EXCEPTION, MACHINERY ACQUIRED THROUGH EXPENDITURE OF MOTOR VEHICLE FUEL EXCISES LEVIED UNDER CHAPTER 5735. RC—WORK SHOULD BE OF VALUE TO GENERAL WELFARE AND BENEFIT OF COUNTY—SERVICES NEEDED FOR OPERATION OF MACHINERY MAY BE CONTRIBUTED—PAYMENT MAY BE MADE WITH MONEY FROM GENERAL FUND OF COUNTY NOT OTHERWISE APPROPRIATED—SECTION 307.27 RC.

SYLLABUS:

A board of county commissioners may under the provisions of Section 307.27, Revised Code, contribute county owned road machinery except such as is acquired through the expenditure of motor vehicle fuel excises levied as provided in Chapter 5735, Revised Code, to an organized soil conservation district when in the opinion of the commissioners the work accomplished by such district is of value to the general welfare and benefit of the county, and they may likewise contribute to such organization the services needed for the operation of such machinery and pay therefor with money from the general fund of the county not otherwise appropriated.

Columbus, Ohio, November 23, 1955

Hon. Fred F. Fox, Prosecuting Attorney
Noble County, Caldwell, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Would you please give me an opinion involving 307.27 of the Revised Code of Ohio? This section in part says that the Board of County Commissioners may make contribution of money, supplies, equipment, office facilities and other property or services to an organized Soil Conservation District. Is it then permissible under this section to put at the disposal of such Soil Conservation District county road machinery for use of such Soil Conservation District and for the county to pay for the maintenance and the operator of such county equipment, assuming that the money to pay for operating such equipment is taken from the general fund?”

“Would it be permissible for the County Commissioners to make a contribution of a piece of county machinery to such Soil Conservation District?”

Among the powers conferred upon a board of county commissioners by the provisions of Chapter 307, Revised Code, is one which authorizes the board to make contributions of money, property and services to a soil conservation district where the work accomplished by such district benefits the county. Section 307.27, Revised Code, provides:

“Boards of county commissioners may make contributions of money, supplies, equipment, office facilities, and other property or services, which will be of value or use to organized soil conservation districts, within or without the boundaries of such county, if said board determines that the work accomplished by such

conservation districts will be of value to the general welfare and benefit of such county. Any money expended by the boards for such uses and purposes shall be drawn from the general fund in the county treasury not otherwise appropriated. Boards may anticipate the expenditure of such funds for such purposes and enter the expenditure in their annual statement to the county budget commission for its inclusion in such budget upon which rates of taxation are established and fixed in the manner provided by law."

The statute here, in clear and unequivocal language expressly authorizes county commissioners to make contributions to organized soil conservation districts of money, supplies, equipment, office facilities and other property and services, if in the opinion of the board the work accomplished by such district will be of value to the contributing county.

Webster defines the word "contribute" as meaning to give or grant in common with others, to give money or other aid for a specified object. Such was the obvious intention of the General Assembly when it first enacted Section 307.27, Revised Code, G. C. 2457-7, in 1951, to make it possible for counties to contribute to the operation and maintenance of soil conservation districts, where the county benefits by the improvement, and authorizes the inclusion of such expenditures in their annual budget and to pay them from the general fund of the county not otherwise appropriated. Nor is there any conflict between Section 307.12, which permits the disposition of personal property by sale at public auction and Section 307.27, which permits the gift or contribution of such property to soil conservation districts. Section 307.27, originally enacted by the 99th General Assembly in connection with the administration of natural resources, 124 Ohio Laws, 285; G. C. 2457-7, is of recent origin and confers upon county commissioners the specific power of contributing money, property and services to soil conservation districts which they did not possess before. It is an additional power which does not affect those already given by statute.

It should be borne in mind, however, that much of the road machinery acquired by counties is paid for with the proceeds of motor vehicle fuel excises levied under the provisions of Chapter 5735, Revised Code, and distributed to the several subdivisions as provided in Sections 5735.23 and 5735.27, Revised Code. Both these sections, as well as Article XII, Section 5a, Ohio Constitution, limit the purposes for which such funds may be expended. In general such expenditures are limited to construction and

maintenance of highways, etc., and other statutory highway purposes. Although it has been held that such funds might be used for purposes necessarily incidental to these purposes, as the purchase of road machinery for example, it is not believed that such funds could be used to buy machinery for use by a soil conservation organization for purposes unrelated to highway construction, maintenance, etc.

Moreover, it would amount to a violation of the spirit of these statutes and the constitutional limitation above noted, to dispose of road machinery thus acquired in any way unrelated to highway improvement purposes. It can readily be seen that if used road machinery acquired by the expenditure of motor vehicle excise funds, has any value at all it should be utilized for the purpose for which acquired, or, if sold or traded, the proceeds thus accruing should be likewise devoted to a "statutory highway purpose."

Accordingly, it is my opinion that a board of county commissioners may under the provisions of Section 307.27, Revised Code, contribute county owned road machinery except such as is acquired through the expenditure of motor vehicle fuel excises levied as provided in Chapter 5735, Revised Code, to an organized soil conservation district when in the opinion of the commissioners the work accomplished by such district is of value to the general welfare and benefit of the county, and they may likewise contribute to such organization the services needed for the operation of such machinery and pay therefor with money from the general fund of the county not otherwise appropriated.

Respectfully,

C. WILLIAM O'NEILL
Attorney General