

shall continue the exercise of their functions under municipal ordinances providing offices, regulating the disposition of their fees, their compensation, clerks and other officers and employes. Such justices and constables shall be elected at municipal elections. All property, moneys, credits, books, records and documents of such township shall be delivered to the council of such city or village. All rights, interests or claims in favor of or against the township may be enforced by or against the corporation."

When the corporate limits of a village become identical with those of a township, there are no longer township trustees to administer poor relief, and under section 3512, those duties may be performed by the corresponding officers of the village which would be the village council, and in such case the village may expend funds for poor relief. Reports of the Attorney General, 1911-12, Vol. I, page 250. Opinions of the Attorney General for 1917, Vol. I, page 138; for 1928, Vol. I, page 240.

4 and 5. Section 2 of Amended Senate Bill No. 3, passed at the special session of the 89th General Assembly March 31, 1932, reads as follows:

"At any time prior to the first day of March, 1933, the county commissioners of any county may, upon approval of the state relief commission, transfer to cities or townships in such county, all or any part of the proceeds of the gasoline and motor vehicle license taxes hereafter collected and allocated under existing laws to the county, such funds to be used for poor relief in the subdivision to which they are allocated and for no other purpose."

Inasmuch as a village, whose boundaries have become identical with those of a township, takes the place of such township and has all the rights and duties with respect to administering poor relief as a township does, I am of the opinion that subject to the approval of the state relief commission the county commissioners may allot emergency relief funds to such village in preparing their budget for poor relief under the provisions of Amended Senate Bill No. 4, and may transfer to such village a part of the gasoline and motor vehicle license taxes allocated to such county for poor relief purposes under the provisions of Amended Senate Bill No. 3.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4422.

LIBRARY FUND—UNEXPENDED BALANCE—MAY BE TRANSFERRED TO GENERAL FUND WHERE NOT REQUIRED FOR SINKING OR BOND RETIREMENT FUNDS.

SYLLABUS:

The unexpended balance in a special tax levy fund of a subdivision may be transferred to the subdivision's general fund, provided such money is not required to meet the obligations payable from the sinking fund or bond retirement fund

of the subdivision, and the transfer of the same has the approval of the court of common pleas of the county wherein such subdivision is located.

COLUMBUS, OHIO, June 15, 1932.

HON. HOWARD M. NAZOR, *Prosecuting Attorney, Jefferson, Ohio.*

DEAR SIR:—Your recent request for my opinion reads as follows:

"The Ashtabula Harbor Special School District, several years ago, started levying an annual tax for the purpose of building a library building and furnishing the same with books.

A part of the money raised has been used for the purchase of books, but no building has ever been erected and the plan has been abandoned. There is now a building fund which has been raised by this tax levy in the sum of \$15,000.00. The general fund is badly in need of money, and the schools in the district will, undoubtedly, be required to close several weeks early if some relief is not obtained.

My specific question is whether or not the money which was raised for the construction of the library can be transferred to the general fund of the school district and if so, in what manner this can be done."

A subsequent communication from you discloses that the tax levy in question was for the sole purpose of building a library building and that no money was expended for the purchase of books.

Although this district is styled a "special" school district, I assume, for the purposes of this opinion, that it is either a city school district, exempted village school district, village school district or rural school district (Section 4679, General Code), since special school districts were abolished by statute (Section 4735).

Authority to accomplish the transfer of money from one fund to another is found in the provisions of the Budget Law, Sect'on 5625-1, et seq., General Code. Section 5625-9 provides for the establishment in each subdivision of the following funds:

"(a) General fund.

* * * * *

(d) A special fund for each special levy.

* * * * *

Section 5625-13 reads in part as follows:

"No transfers shall be made from one fund of a subdivision to any other fund, by order of the court or otherwise, except as hereinafter provided:

* * * * *

(b) The unexpended balance in any specific permanent improvement fund other than a bond fund, after the payment of all obligations incurred in the acquisition of such improvement, shall be transferred to the sinking fund or bond retirement fund of the subdivision; provided that if such money is not required to meet the obligations payable from such funds, it may be transferred to a special fund for the acquisition of a permanent improvement or improvements or, with the approval of the

court of common pleas of the county wherein such subdivision is located, to the general fund of the subdivision.

* * * * *

Under the express terms of the above section, the unexpended balance in the library fund here under consideration which was raised by a special tax levy, may be transferred to the general fund, provided such money is not required to meet the obligations payable from the sinking fund or bond retirement fund of the subdivision. It follows from the express language of the statute that if there are any bonds of the subdivision outstanding or obligations payable from such funds, then a transfer from such funds to the general fund would be prohibited.

In view of the foregoing and in specific answer to your inquiry, I am of the opinion that the unexpended balance in a special tax levy fund of a subdivision may be transferred to the subdivision's general fund, provided such money is not required to meet the obligations payable from the sinking fund or bond retirement fund of the subdivision, and the transfer of the same has the approval of the court of common pleas of the county wherein such subdivision is located.

Respectfully,

GILBERT BETTMAN,

Attorney General.

4423.

FOREIGN CORPORATION—NECESSITY OF COMPLYING WITH FOREIGN CORPORATION ACT—WHAT CONSTITUTES DOING BUSINESS IN OHIO.

SYLLABUS:

What constitutes doing business within the state for the purpose of qualification of foreign corporations within the state under the provisions of Sections 8625-1 to 8625-33, General Code, discussed.

COLUMBUS, OHIO, June 15, 1932.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your request for opinion as to whether when foreign corporations conduct their business as hereinafter delineated within the State of Ohio, such acts constitute doing business within the meaning of the foreign corporation act of Ohio, so as to necessitate compliance with such act on the part of such companies.

1. The D. F. Company, a foreign corporation, maintains no office in Ohio. Orders for its merchandise are procured through independent brokers, who send such orders to the main office of the company in the foreign state, for approval or rejection, after determination of the credit responsibility of such purchaser. Such orders, when accepted, are filled from stocks of merchandise maintained in three Ohio public warehouses. All orders are billed direct from the main office and collections made from there.

2. The M. S. Company, a foreign corporation, employs a number of salesmen in Ohio, who solicit orders for its merchandise subject to the confirmation of the main office without the state. The main office, upon approval of the orders, fills the same from stocks of merchandise maintained in warehouses in one of