

458.

APPROVAL, BONDS OF DARKE COUNTY, \$73,500.00, TO IMPROVE
ROADS.

COLUMBUS, OHIO, June 16, 1923.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

459.

TUBERCULOSIS HOSPITAL—COUNTY COMMISSIONERS UNDER SECTION 5655 G. C. MAY BORROW MONEY IN ANTICIPATION OF CURRENT REVENUES TO PAY EXPENSES.

COLUMBUS, OHIO, June 18, 1923.

SYLLABUS:

County Commissioners under section 5655 General Code may borrow money in anticipation of current revenues for the fiscal year to pay the operating expenses of a county tuberculosis hospital.

HON. OTHO L. MCKINNEY, *Prosecuting Attorney, Springfield, Ohio.*

DEAR SIR:—This department is in receipt of your recent communication as follows:

“The district tuberculosis hospital situated in Springfield, comprising four counties of which Clark is one, is in financial straits.

“There is an accumulation of some \$6,000.00 of indebtedness and an emergency exists. If money cannot be quickly provided the hospital will have to close its doors. Can the Commissioners of Clark County issue bonds covering its share of this indebtedness under authority of Section 2434 which provides among other things that the commissioners may borrow such sums or money as they may deem necessary ‘for the relief or support of the poor’.

“An opinion of the Attorney General reported in the year 1919, Volume 2, page 1465, appears to block every other source of raising money for this purpose. Something must be done in a financial way to tide over until a sufficient tax levy can be made.

“If the above method is not advisable, could you suggest one.”

Also a communication of the same date as follows:

“The Bureau of Inspection of Public Offices of Ohio has made a finding against the Board of Commissioners of Clark County in the sum of approximately \$2,600.00 due to the District Tuberculosis Hospital made up of some four counties, of which Clark County is a member.

There is no money in the District Tuberculosis Hospital fund of this county. In view of the above facts can the Commissioners pay this finding out of the general expense fund of the county?"

As both of the above letters request opinions on matters which are related as to subject matter, I will attempt to answer both in the same opinion.

Section 2434 General Code, which you cite, provides that the commissioners may issue bonds for certain purposes and sets out in the statute the specific purposes, one of which is "for the relief or support of the poor".

As indicated in your letter, the indebtedness is for the general maintenance of a hospital and therefore would not come within section 2434. Section 3152 General Code, so far as pertinent to your inquiry, provides:

"The boards of commissioners of counties jointly maintaining a district hospital for tuberculosis shall make annual assessments of taxes sufficient to support and defray the necessary expense of maintenance of such hospital."

The section quoted provides the way to raise the money for the maintenance of the hospital and provides for the manner of determining the proportionate cost of operation among the respective counties:

Section 3152-1, so far as pertinent, provides:

"All taxes levied by the county commissioners of any county under the provisions of section thirty-one hundred and fifty-two shall, when collected, be paid over to the trustees of the district tuberculosis hospital upon the warrant of the county auditor, at the same time that school and township moneys are paid to the respective treasurers (i. e., after each semi-annual settlement of taxes); and the board of trustees shall receipt therefor and deposit said funds to its credit in the bank * * * to be designated by it * * *; and thereupon said funds may be disbursed by said board of trustees for the uses and purposes of said district tuberculosis hospital, and accounted for as provided in the foregoing sections."

The above section provides how the money raised by section 3152 shall be handled and further provides the hospital shall be maintained from this fund. From your second communication I presume that the finding mentioned was made in accordance with section 3152 and is for Clark County's share of the cost of maintenance of the hospital.

There is no provision in any other section, as far as I can find, permitting the expenses of said hospital to be paid from the general expense fund.

It has been held by a former Attorney General, in Opinions of the Attorney General for 1919, page 1465, that the commissioners may not issue bonds under section 2434, or borrow money under section 5656 G. C., for the purpose of paying a deficit in the operating fund.

From an examination of the above sections and the former opinion of this department, we arrive at the following conclusion:

First, that the commissioners may not issue bonds or borrow money under sections 2434 and 5656, General Code, covering Clark County's share of indebtedness for the operation of the tuberculosis hospital.

Second, that the commissioners may not pay their share of such indebtedness from the general expense fund.

You further ask that this department suggest some way of relieving your

financial difficulties so that the necessity of closing the institution may be avoided. Section 5655 G. C., as found in 109 O. L., p. 337, provides:

"In anticipation of the collection of current revenues in any fiscal year, the county commissioners of any county, the board of education of any school district or the township trustees of any township may borrow money and issue certificates of indebtedness therefor, but no loans shall be made to exceed the amount estimated to be actually received from taxes and other current revenues for such fiscal year, after deducting all advances. The sums so anticipated shall be deemed appropriated for the payment of such certificates at maturity. The certificates shall not run for a longer period than six months nor bear a greater rate of interest than six per cent. and shall not be sold for less than par with accrued interest."

House Bill 33, under which section 5655 is found, is entitled "An Act to prohibit the creation or incurring of indebtedness of political subdivisions of the state for current expense, to regulate the maturities of such indebtedness * * *."

As the title suggests, this act is an effort to regulate the maturity of current indebtedness and was passed for the relief of such conditions as exist in your county.

It is the opinion of this department that the commissioners may borrow money in anticipation of current revenues for the fiscal year to cover the indebtedness of Clark County for the operation of the tuberculosis hospital.

Respectfully,
C. C. CRABBE,
Attorney General.

460.

BOARD OF HEALTH—NOT NECESSARY TO CERTIFY QUARANTINED PERSONS AS INDIGENT POOR TO COLLECT EXPENSES FROM TOWNSHIP OR MUNICIPALITY—WHETHER SUCH PERSON IS UNABLE TO PAY IS QUESTION OF FACT—SECTION 4436 CONSTRUED.

SYLLABUS:

It is not necessary to certify quarantined persons as indigent poor, as provided for in sections 3476 and 3496, before such expenses can be collected from the township or municipality, as provided for by section 4436.

A municipality is required to pay the bills of a quarantined person residing within such municipality, under section 4436, when such person is unable to pay.

It is the duty of the authority who is to pay such bills to determine whether such quarantined person is able to pay or not. Whether or not the quarantined per-