

the department of highways and public works is charged with the duty of itself expending the county's apportionment of the seventy-five per cent.

Again, section 1212 G. C. is in substance that the state's proportion of cost shall be paid by the treasurer of state upon the warrant of the auditor of state issued upon the requisition of the director of highways and public works; and that the county's share is to be paid out of county funds upon requisition by the director of highways and public works.

The foregoing brief considerations are sufficient to show that a negative answer must be given to your question.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2751.

COUNTY HOSPITAL—TRUSTEES HAVE AUTHORITY TO EXPEND MONEY RAISED BY SECTION 3133 G. C. WITHOUT ANY ACTION BEING TAKEN BY COUNTY COMMISSIONERS.

Hospital trustees have authority to expend money raised under section 3133 G. C. without any action being taken by the county commissioners.

COLUMBUS, OHIO, December 31, 1921.

HON. V. W. FILIATRAULT, *Prosecuting Attorney, Ravenna, Ohio.*

DEAR SIR:—YOUR letter received in which you request the opinion of this department on the following matter:

"I would like your ruling as to whether or not the hospital trustees would have the authority to spend money levied for extensions of the county hospital to be used in building additions, without any action of the county commissioners, or does section 3137, quoted above, restrict the expenditures to be made by the county hospital trustees to items for maintenance and operation only to the exclusion of extensions."

The General Code sections to be considered herein are as follows:

"Sec. 3133. Upon the certificate of such trustees, stating the amount necessary, the county commissioners shall issue and sell the bonds of the county in the amount so certified but not in excess of the amount named in said petitions. Said bonds shall be sold in anticipation of taxes to be levied as hereinafter provided; they shall bear interest at a rate not exceeding six per cent per annum, payable semi-annually, and the proceeds thereof shall be used for the purpose of purchasing a site and erecting hospital buildings, or of purchasing a site with buildings already erected thereon and for equipping and maintaining the same.

Annually thereafter the commissioners shall levy, in addition to all other levies authorized by law, an amount sufficient to properly maintain and conduct said hospital and furnish such extensions and further equipment thereof as may be necessary; and also to provide a sufficient

sinking fund for the ultimate payment of such bonds and interest as the same shall mature."

"Sec. 3137. * * * Such board shall assume and continue the operation of such hospital. It shall have the entire management and control of the hospital and shall establish such rules for the government thereof and the admission of persons thereto as it deems expedient; it shall have control of the property of the hospital and deposit all monies thereof with the county treasurer to the credit of the hospital fund; and the same shall be paid out only for the maintenance and operation of such hospital, on the warrant of the county auditor, issued pursuant to the orders of the trustees. * * *

The trustees shall annually on the first day of March file with the county commissioners a statement of their receipts and expenditures for the preceding year and shall submit to such commissioners an estimate of the financial requirements of such hospital for the ensuing year."

The county commissioners levy taxes annually for the purpose, among others, of furnishing such extensions and further equipment thereof as may be necessary. The amount of these taxes is based on the estimate of financial requirements furnished by the hospital trustees under General Code section 3137. It may be that no specific provision is made for the expending of money by the trustees except in General Code section 3137. However, the fund provided in General Code section 3137 is one arising wholly out of the operation of the hospital property and the purposes for which that particular fund may be expended are therein provided. The limitations of that section have no bearing on funds raised under section 3133 G. C. under the title of tax levy. Section 3135 G. C. is as follows:

"Before making a contract for the expenditure of money on any structure or improvement in excess of one thousand dollars, the hospital trustees shall advertise according to law for bids, and cause plans, specifications and detailed drawings to be distributed among the bidders."

Although no specific provision is made for the expenditure of money by hospital trustees, this last quoted Code section would indicate and it appears from a reading of all the sections that the expenditure of money is left entirely to the hospital trustees. The only action provided for or necessary to be taken by the county commissioners is the act of levying the tax based on the estimate of needs as furnished by the trustees. After the act of the county commissioners in levying the tax is completed, no further action by them is provided as to the funds under consideration.

You are therefore advised that the hospital trustees have authority to expend money levied for extensions to county hospitals under section 3133 G. C. for additions without any action being taken by the county commissioners.

Respectfully,
JOHN G. PRICE,
Attorney-General.