

Specifically answering your inquiries, it is my opinion that:

1. After the effective date of Sections 3391, 3391-1 to 3391-12, both inclusive, General Code, boards of township trustees may, under authority of Section 5625-13h, General Code, transfer poor relief funds in their custody to the board of county commissioners of the county within which such township lies, for poor relief purposes. (O. A. G. 1939, Volume II, Page 1653, approved and followed.)

2. Expenditures for poor relief made by a board of county commissioners from funds transferred to it by a township for poor relief purposes, if of the type approved by the State Director of Public Welfare as "obligations for poor relief," may under authority of Section 3391-11, General Code, be included in computing funds for matching state contributions.

3. A board of township trustees has no authority to include in its budget or levy a tax for the year 1940 for poor relief as that term is defined in Section 3391, General Code, since it is not a tax levying authority for such purpose.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1485.

PARK DISTRICT—WHEN CREATED UNDER SECTIONS 2976-1 ET SEQ., G. C.—NO PROVISION TO CHARGE SUCH DISTRICT WITH BONDED INDEBTEDNESS COVERING INCLUDED TERRITORY LYING IN A SCHOOL DISTRICT OR DISTRICTS OR POLITICAL SUBDIVISIONS—NO WAY TO SECURE FUNDS FROM PARK DISTRICT TO PAY PROPORTIONATE SHARE OF SUCH BONDED INDEBTEDNESS.

SYLLABUS:

When a park district is created in pursuance of Sections 2976-1 et seq. of the General Code of Ohio, and included therein is territory lying in a school district or school districts or political subdivisions having bonded indebtedness, no provision of law exists whereby the park district becomes charged with any portion of the said bonded indebtedness and no way exists under the law whereby the taxing authority or the bond issuing authority of any such subdivision may secure from the park commission for said park district, funds for the payment of a proportionate share or any part of the said bonded indebtedness.

COLUMBUS, OHIO, December 1, 1939.

HON. CARL W. RICH, *Prosecuting Attorney, Hamilton County, Cincinnati, Ohio.*

DEAR SIR: This will acknowledge receipt of your request for my opinion in answer to the following question:

“When Sharon Woods was created by the Park Commission of Hamilton County, the property which they secured was located in three school districts, each of which had a bonded indebtedness. This property was placed on the tax exempt list. How can these school districts secure the money from the Park Commission to pay the bonded indebtedness which is a just charge against the property taken over by the Park Commission?”

I am informed that “Sharon Woods” is a park district created under and by authority of Sections 2976-1 et seq., of the General Code of Ohio. Under an Act of the Legislature enacted in 1917 (107 O. L., 65) codified as Sections 2976-1 to 2976-10c, inclusive, authority was extended for the creation, development and improvement of park districts within any county, the affairs of which are to be administered and controlled by a board of park commissioners as provided therein. This aforesaid Act of 1917 was amended in some respects, and supplemented in 1920 by an Act of the Legislature (108 O. L., part 2, page 1097) and again in 1929 (113 O. L., 659). It has been further supplemented in 1939 by the 93rd General Assembly (Amended Senate Bill No. 324), and the law with respect thereto now exists as Sections 2976-1 to 2976-10m, inclusive, of the General Code of Ohio.

In pursuance of these several statutes, a board of park commissioners created by authority thereof, is constituted a body corporate and politic, with power to acquire lands by gift, devise, purchase, or appropriation, either within or without a park district as originally created, for conversion into forest reservations and for the conservation of natural resources of the state, including streams, lakes, submerged and swamp lands, and to these ends the said board is authorized to create parks, parkways, forest reservations and other reservations and to afforest, develop, improve, protect, and promote the use of the same in such manner as the board may deem conducive to the general welfare. (Section 2976-7, General Code.) It is also provided in Section 2976-10d, General Code, that, when conducive to the general welfare any territory adjacent and contiguous to an existing park district, whether located within or without the county in which such district was created, may be annexed to such park district.

By force of Section 5356, General Code, the lands included within a

park district created in pursuance of said Sections 2976-1 et seq., General Code, and other property belonging to such a district is exempt from taxation, except of course, such taxation as may be imposed for administrative purposes pursuant to Section 2976-10i of the General Code. Said Section 5356 reads as follows:

“Market houses, public squares, or other public grounds of a city, village or township, houses or halls used exclusively for public purposes or erected by taxation for such purposes, notwithstanding that parts thereof may be lawfully leased, and property belonging to park districts, created pursuant to the provisions of Section 2976-1 et seq. of the General Code, shall be exempt from taxation.”

An examination of the several acts of the Legislature and of the statutory provisions existing by virtue thereof, relating to the creation and administration of park districts such as are here under consideration, discloses no provision whatever with respect to the assumption by such a park district of a proportionate share or any part of the debts and liabilities of political subdivisions a portion of whose territory is taken to compose the park district, nor the accrual to the park district of any part of the existing funds of such subdivisions, as exists for instance, with respect to the equitable division of funds and indebtedness where territory is detached from one school district and annexed to another. See Sections 4692, 4696 and 4736, General Code. In the absence of any such provisions, it clearly follows, in my opinion, that no power exists for a park district to assume or be charged with a proportionate share or any part of the indebtedness of a school district or any other political subdivision a portion of whose territory is included within the park district.

A somewhat analogous proposition was the subject of an opinion of a former Attorney General. This opinion related to the creation of sanitary districts, and the inclusion therein of territory embraced within a school district which had bonded indebtedness. This opinion will be found in the reported Opinions of the Attorney General for 1932, page 406. The syllabus of the opinion is as follows:

“When lands constituting part of the territory of a school district become the property of a sanitary district organized under the provisions of Section 6602-34 et seq., General Code, by purchase or otherwise, and such lands are thereafter exempted from taxation by reason of their public use by the sanitary district, the sanitary district is not required to assume or to pay the school district any part of the amount of such bonded indebtedness, on account of the loss of such lands from the taxable property of the school district.”

In the situation under consideration in the aforesaid opinion, it appeared that there has been organized under and in pursuance of Sections 6602-34 et seq., of the General Code, the Mahoning Valley Sanitary District, and included therein was certain territory of the Weathersfield Township Rural School District in Trumbull County, which school district had a bonded indebtedness. The lands and property of the Mahoning Valley Sanitary District were exempt from taxation by reason of their being public property, used for a public purpose, and in pursuance of Sections 5570-1 and 5616 of the General Code of Ohio. In the course of the opinion, the Attorney General said:

“With respect to the question presented in your communication as to whether or not, in this situation, the Mahoning Valley Sanitary District can be required to reimburse the Weathersfield Rural School District for a proportionate amount of such outstanding school district bonds, on account of the exemption from taxation of the lands here in question, I know of no principle of law, either statutory or otherwise, which requires this to be done. The situation of the Weathersfield Township Rural School District with respect to these exempted lands is no different than would be the situation if these lands, by competent and lawful administrative action, had been transferred to another school district. In such case, although the lands so transferred would be required to bear the burden of taxes imposed to retire bonds issued by the school district to which they were transferred, they could not legally be assessed for taxes to retire outstanding bonds issued by the district from which they were transferred.

On the consideration above noted, I am of the opinion that the Weathersfield Township Rural School District does not have a claim of any kind against the Mahoning Valley Sanitary District with respect to the exemption from taxation of the lands here in question; and, moreover, I am of the opinion that the Tax Commission of Ohio can not, by reconsideration of its former orders, or otherwise, impose any conditions with respect to the exemption of these lands, so far as the outstanding bonds of the school district are concerned.”

From what has been said, I am of the opinion, in specific answer to the question submitted, that there is no way under the law whereby the school districts, a portion of the territory of which was embraced within “Sharon Woods” as a park district may secure from the Sharon Woods

Park Commission funds to pay any part of the bonded indebtedness of the said school districts.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1486.

BONDS, CITY OF ALLIANCE, STARK COUNTY, \$10,000.00.

COLUMBUS, OHIO, December 1, 1939.

Retirement Board, Public Employes Retirement System, Columbus, Ohio.

GENTLEMEN:

RE: Bonds of the City of Alliance, Stark County, Ohio,
\$10,000.00.

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise part of an issue of delinquent tax poor relief bonds in the aggregate amount of \$25,000, dated September 1, 1939, and bearing interest at the rate of 3% per annum.

From this examination, in the light of the law under authority of which the above bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute valid and legal obligations of said city.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1487.

BONDS—CITY OF CLEVELAND, CUYAHOGA COUNTY,
\$20,000.00.

COLUMBUS, OHIO, December 1, 1939.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:

RE: Bonds of the City of Cleveland, Cuyahoga County,
Ohio, \$20,000.

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise part of an issue of