

OPINION NO. 84-026

Syllabus:

A county agricultural society may contribute money to another county agricultural society to the extent that such money is not derived from a public source and required to be used for a particular purpose and to the extent that the constitution and bylaws of the contributing society permit such an expenditure.

To: Dale L. Locker, Director, Department of Agriculture, Columbus, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, May 11, 1984

I have before me your request for my opinion as to whether one county agricultural society may voluntarily contribute money to another agricultural society in order to defray legal expenses that the latter society has incurred defending a lawsuit that may have an impact upon all county agricultural societies.

County agricultural societies may be organized pursuant to R.C. 1711.01. Such societies are "declared bodies corporate and politic, and as such. . . capable of suing and being sued." R.C. 1711.13. Clearly, one may imply from this statute the authority to pay legal expenses when a county agricultural society sues or is sued. Your query, however, is whether one such society may contribute moneys to another society to defray legal expenses that the latter society has incurred.

Initially, it is helpful to consider the nature of such societies. Courts have described county agricultural societies variously as voluntary associations or corporations, Dunn v. Agricultural Society, 46 Ohio St. 93, 99, 18 N.E. 496, (1888) (concluding that the voluntary character of such a society prevents its assertion of the defense of sovereign immunity); "public institutions," State ex rel. Leaverton v. Kerns, 104 Ohio St. 550, 136 N.E. 217 (1922) (syllabus, paragraph 2) (finding that state or county financial assistance to a county agricultural society does not violate the constitutional prohibition regarding the lending of aid or credit to a private enterprise because a primary purpose of such societies is public instruction through agricultural fairs); and "public organizations," Bazell v. City of Cincinnati, 13 Ohio St. 2d 63, 72, 233 N.E.2d 864, 871, cert. denied sub nom., Fosdick v. Hamilton County, 391 U.S. 601 (1968) (reviewing entities to which a county may properly lend its aid or credit). Thus, the public character of a county agricultural society's functions and purpose makes such a society a proper recipient of public funds. Nevertheless, the courts recognize, as well, the private character of such societies.

I note that a county agricultural society derives its funds principally from the county in which it is located. For example, pursuant to R.C. 1711.01, such a society may receive funds from the county if it holds an annual exhibition and properly reports to the Department of Agriculture. A county may appropriate money to a society in order to encourage junior club work, or may reimburse a society for funds expended in carrying on junior club work. R.C. 1711.03. A county may appropriate moneys from its general fund to purchase or improve real estate, or contribute to or pay any other indebtedness of a county agricultural society; upon approval of fifty-five percent of the voters, the county may levy a tax for such expenditure. R.C. 1711.15; 1711.21. A county may also, in certain circumstances, issue bonds, the proceeds of which may be used to pay off the indebtedness of a county agricultural society; the county must then levy a tax to pay the bonds as they mature. R.C. 1711.18 through 1711.20. See also R.C. 1711.22, 1711.28, 1711.29, 1711.34. A county agricultural society may realize additional moneys through holding county fairs, and renting or leasing of grounds and buildings, in excess of the necessary expenses thereof; however, such moneys may only be "used as funds for keeping such grounds or buildings in good order and repair and for making other improvements deemed necessary by the society's directors." R.C. 1711.31.

A review of the various sources of county agricultural society funds shows that the recipient society generally may expend such funds only for a particular purpose. See, e.g., R.C. 1711.01 (funds may not exceed the amount a society spends for regular class premiums); R.C. 1711.15 (county may appropriate general fund moneys for purchase or improvement of real estate for the benefit of a society); R.C. 1711.31 (moneys realized from holding a county fair or leasing fairgrounds, beyond necessary expenses thereof, must be used as a fund to maintain such grounds). There is no authority for permitting any moneys to be expended for a purpose other than the appropriate statutes may prescribe. See State ex rel. Smith v. Maharry, 97 Ohio St. 292, 119 N.E. 822 (1918) (syllabus, paragraph 1) (Public funds may be disbursed only by clear authority of law.). I am not aware of any statutory authority which enables a county agricultural society to give money received from a county to another society to help defray legal expenses. "In case of doubt as to the right. . . to expend public moneys under a legislative grant, such doubt must be resolved in favor of the public and against the grant of power." State ex rel. A. Bentley & Sons Co. v. Pierce, 96 Ohio St. 44, 117 N.E. 6 (1917) (syllabus, paragraph 3).

It is, however, possible that a county agricultural society may derive funds from sources other than those specifically set forth in the statutes. For example, the society may be the beneficiary of a gift, or members may be assessed of a membership fee. See R.C. 1711.06 ("No person shall pay for or secure more than one such membership, and that membership shall be for himself."). The statutes pertaining to county agricultural societies prescribe no specific limitations upon the expenditure of such funds. Nevertheless, expenditures of such funds, derived from private rather than public sources, must be made in accordance with the constitutions and bylaws which the society has adopted pursuant to R.C. 1711.01.

It is, therefore, my opinion, and you are advised, that a county agricultural society may contribute money to another county agricultural society to the extent that such money is not derived from a public source and required to be used for a particular purpose and to the extent that the constitution and bylaws of the contributing society permit such an expenditure.