

OPINION NO. 84-033**Syllabus:**

Pursuant to R.C. 5101.161, the board of county commissioners, at the beginning of the fiscal year, shall appropriate the amount certified by the Department of Public Welfare as necessary to meet the county's share, as defined in R.C. 5101.16, of expenditures for aid, health care and administration under R.C. Chapters 5107 and 5113, such amount to be reduced or increased by the amount of the balance or deficit in the public assistance fund at the end of the preceding fiscal year. The balance or deficit in such fund at the end of the fiscal year is the balance or deficit remaining after adjustments for that fiscal year are made by the Department of Public Welfare in accordance with R.C. 5101.161.

To: Daniel Myers, Mercer County Prosecuting Attorney, Celina, Ohio

By: Anthony J. Celebrezze, Jr., Attorney General, June 25, 1984

I have before me your opinion request in which you ask about the method of computing the amount which the board of county commissioners must appropriate, pursuant to R.C. 5101.161, for the county's share, as defined in R.C. 5101.16, of expenditures for aid, health care and administration under R.C. Chapters 5107 (Aid to Dependent Children) and 5113 (Poor Relief).

At the outset, it would be useful to discuss in general terms the statutory scheme governing Aid to Dependent Children and Poor Relief. The legislature has established two welfare programs, Aid to Dependent Children (R.C. Chapter 5107) and Poor Relief (R.C. Chapter 5113), which are funded through various sources. As described in R.C. 5101.16, the program for Aid to Dependent Children is funded by federal, state and county funds. See generally R.C. 5107.06 (apportionment to counties of federal funds for Aid to Dependent Children); R.C. 5107.08 (payments to counties for amounts apportioned under R.C. 5107.01 to R.C. 5107.16). The Poor Relief program established by R.C. Chapter 5113 is funded by state and county money. See generally Robinson v. Rhodes, 424 F. Supp. 1183 (N.D. Ohio 1976) (discussing funding of R.C. Chapter 5113 Poor Relief program); St. Thomas Hospital v. Schmidt, 62 Ohio St. 2d 439, 406 N.E.2d 819 (1980) (R.C. 5101.161 requires the board of county commissioners to appropriate the amount necessary to meet the county's share of administering the Poor Relief program). See also R.C. 5113.09 ("[t]he department of public welfare shall: . . . (D) Determine the kinds and amounts of obligations for poor relief and the administration thereof on which state reimbursement will be based"); 1966 Op. Att'y Gen. No. 66-164. The county's share of the funding of these two programs is determined in the manner set forth in R.C. 5101.16.

Concerning the appropriation of the county's share of expenditures, as defined in R.C. 5101.16, R.C. 5101.161 states:

Prior to December sixteenth, annually, the department of public welfare shall certify to the board of county commissioners of each county the amount estimated by the department to be needed in the following calendar year to meet the county share, as defined in

section 5101.16 of the Revised Code, of expenditures for aid, health care, and administration under Chapters 5107. and 5113. of the Revised Code. At the beginning of the fiscal year the board of county commissioners shall appropriate the amount certified by the department, reduced or increased by the amount of the balance or deficit in the public assistance fund at the end of the fiscal year. The attorney general shall bring mandamus proceedings against any board which fails to make such an appropriation. (Emphasis added.)

Pursuant to R.C. 5101.161, once the Department of Public Welfare has certified the estimated amount necessary to meet the county's share of aid, health care and administration under R.C. Chapters 5107 and 5113, the county shall appropriate such amount, "reduced or increased by the amount of the balance or deficit in the public assistance fund at the end of the fiscal year." See generally State ex rel. Brown v. Board of County Commissioners, 21 Ohio St. 2d 62, 255 N.E.2d 244 (1970) (discussing county's duty under R.C. 5101.161 to appropriate amount of deficit in public assistance fund, without discussion of the manner in which such deficit is computed).

In order to determine the extent to which the amount certified by the Department of Public Welfare as necessary to meet the county's share of welfare expenditures is to be reduced or increased, it is necessary to ascertain the meaning of the phrase "balance or deficit in the public assistance fund," as that language is used in R.C. 5101.161. Concerning the funds to be placed in the public assistance fund, R.C. 5101.161 states:

Funds provided under this section shall be placed in a special fund in the county treasury known as the public assistance fund. All moneys received from the state government for the purposes of Chapters 5107.¹ and 5113. of the Revised Code shall be deposited in the county treasury to the credit of the public assistance fund. Expenditures for poor relief under Chapter 5113. of the Revised Code and expenditures for county administration pursuant to Chapter 5107. of the Revised Code shall be made from the public assistance fund. (Footnote added.)

Further, in those instances where the Director of Public Welfare determines that aid and health care payments under R.C. Chapter 5107 should be made by a county instead of by the state, the Department of Public Welfare shall advance to the county state and federal funds which are then deposited in the public assistance fund established by R.C. 5101.161. R.C. 5101.16. Thus, it is clear that both state and federal funds, received from the Department of Public Welfare, are placed in the county treasury to the credit of the public assistance fund.

R.C. 5101.161 specifies that: "Funds provided under this section shall be placed in a special fund in the county treasury known as the public assistance fund." Since R.C. 5101.161 also provides for the county's appropriation of the county's share of expenditures for aid, health care and administration under R.C. Chapters 5107 and

¹ Pursuant to R.C. 5107.02(G), the Department of Public Welfare has authority to "[a]dminister and expend, pursuant to sections 5107.02 to 5107.15 of the Revised Code, any sums appropriated by the general assembly for the purpose of such sections and all sums paid to the state by the secretary of the treasury of the United States as authorized by Title IV of the Social Security Act." Further, pursuant to R.C. 5107.06, all amounts received by the state from the federal government under The Social Security Act to be used for Aid to Dependent Children are paid into the state treasury, and "shall be apportioned to each county according to rules and regulations of statewide application established by the director of public welfare." See generally R.C. 5101.16(A) (federal reimbursement for assistance, health care and county administrative costs). R.C. 5101.161 then provides for payment to the counties of federal money for county administration pursuant to R.C. Chapter 5107.

5113, such funds are provided under R.C. 5101.161 and are also to be deposited in the public assistance fund. It is clear, therefore, that in addition to state and federal money, the county share of expenditures, as defined in R.C. 5101.16, is placed in the county treasury to the credit of the public assistance fund.²

The manner in which state and federal funds are paid to each county for placement in the public assistance fund is governed by R.C. 5101.161, as follows:

Before the beginning of each quarter the department of public welfare shall estimate the county share as defined in section 5101.16 of the Revised Code of state expenditures for aid and health care pursuant to Chapter 5107. of the Revised Code, the state share of county expenditures for poor relief and its administration pursuant to Chapter 5113. of the Revised Code, and the state and federal share of expenditures for county administration pursuant to Chapter 5107. of the Revised Code. The department shall prepare a voucher at least quarterly authorizing payment from the state public assistance subsidy for the estimated difference between the local share of state expenditures and the sum of the state and federal shares of local expenditures. The amount to be paid to each county shall be increased or decreased each quarter by the amount by which the actual difference between local share and the sum of the state and federal shares in the second previous quarter varies from the estimate on which the advance of funds was based.

Pursuant to R.C. 5101.161, the Department of Public Welfare makes payments at least quarterly to each county for the "estimated" difference between the local share of state expenditures and the sum of the state and federal shares of local expenditures. Each of such estimated payments is, however, to be increased or decreased by the amount by which the actual difference between the local share of state expenditures and the sum of the state and federal shares in the second previous quarter varies from the estimate on which such second previous quarter advance of funds was based. Thus, although the Department of Public Welfare advances a sum of money to each county and such sum is placed in the public assistance fund of the county, to the extent that such sum exceeded the amount actually payable to the county from state and federal funds, it will be used as an offset of amounts paid by the Department to the county in the second following quarter. Similarly, to the extent that the Department's payment to a county under R.C. 5101.161 was less than the amount actually payable to the county from state and federal funds, the Department's payment to the county in the second following quarter will be increased to account for the previous underpayment. The amount in the public assistance fund at any given time, therefore, appears to be subject to being either used as an offset of future payments by the state or supplemented by future state payments.

It is in light of this statutory scheme that the language of R.C. 5101.161 concerning the appropriation of the county's share of welfare expenditures must be interpreted. You specifically question whether R.C. 5101.161 allows the county to use the entire balance in the public assistance fund at the end of a fiscal year to reduce the amount of the county's share, as defined in R.C. 5101.16, to be appropriated by the county for the next fiscal year. As set forth above, R.C. 5101.161 states, in pertinent part: "At the beginning of the fiscal year the board of county commissioners shall appropriate the amount certified by the department, reduced or increased by the amount of the balance or deficit in the public

² Pursuant to R.C. 5101.16, in most instances expenditures for Aid to Dependent Children pursuant to R.C. Chapter 5107, except expenditures for county administration, are paid by the Treasurer of State on warrants drawn by the Auditor of State. The county's share of such state expenditures for aid and health care under R.C. Chapter 5107 is then deducted from the amount the state pays to the county for county expenditures for poor relief and county administration. R.C. 5101.161.

assistance fund at the end of the fiscal year." Reading this provision alone, it might appear that the entire balance in the fund at the end of the fiscal year is to be used to reduce the amount of the county's share to be appropriated by the county for the next fiscal year. I note, however, that R.C. 5101.161 also provides for the Department of Public Welfare to adjust its payment to the county of federal and state funds by the amount of overpayment or underpayment of such funds in the second previous quarter. It appears, therefore, that these two provisions are, at least in part, inconsistent.

It is well established, that where there appears to be some uncertainty of meaning or some conflict among statutory provisions, it is permissible to resort to rules of statutory construction to ascertain the legislative intent in the enactment of the statute. See Caldwell v. State, 115 Ohio St. 458, 154 N.E. 792 (1926); Kroff v. Amrhein, 94 Ohio St. 282, 114 N.E. 267 (1916). A basic rule of statutory construction is that in interpreting a statute, it is necessary to give effect to every part of the statute. R.C. 1.47(B); Scott v. Reinier, 58 Ohio St. 2d 67, 388 N.E.2d 1226 (1979); Caldwell v. State, 115 Ohio St. at 463, 154 N.E. at 793 ("[t]he rules of interpretation require that some meaning and effect should be given to every part of the statute"). Further, in interpreting the meaning of a particular sentence within a statute, it is necessary to look at the statute as a whole to ascertain the meaning of that sentence. Black-Clawson Co. v. Evatt, 139 Ohio St. 100, 38 N.E.2d 403 (1941).

If that portion of R.C. 5101.161 concerning the county's duty to appropriate funds to meet the county's share of welfare expenditures were read as authorizing the county to use the entire balance, including state and federal funds, remaining in the public assistance fund at the end of the fiscal year to offset the appropriation of the county's share for the next fiscal year, such interpretation would, in part, abrogate the authority of the Department of Public Welfare under R.C. 5101.161 to adjust its payments to the county of state and federal funds based on overpayments or underpayments in the second previous quarter. In order to give effect to the provision of R.C. 5101.161 concerning the authority of the Department of Public Welfare to make such adjustments, it is necessary to read the term "balance or deficit in the public assistance fund" as referring to the balance or deficit remaining in the fund once the Department has made the adjustments required by that statute. Such a reading of R.C. 5101.161 allows the Department of Public Welfare to make the adjustments in its payments to the county of state and federal funds and also allows the county to accurately appropriate the county's share of expenditures for the fiscal year, taking into account any balance or deficit remaining in the public assistance fund, with regard for any adjustments which the Department of Public Welfare is required to make. See generally Humphrvs v. Winous Co., 165 Ohio St. 45, 133 N.E.2d 780 (1956) (syllabus, paragraph one) ("[w]here there are contradictory provisions in statutes and both are susceptible of a reasonable construction which will not nullify either, it is the duty of the court to give such construction thereto").

In interpreting the phrase, "balance or deficit in the public assistance fund," as that language is used in R.C. 5101.161, it is useful to examine the scheme set forth in R.C. 5101.16 concerning the computation of the county's share of expenditures under R.C. Chapters 5107 and 5113. See Eggleston v. Harrison, 61 Ohio St. 397, 404, 55 N.E. 993, 996 (1900) ("acts upon the same subject are to be construed as a whole with reference to an entire system of which all are parts"). R.C. 5101.16 states, in pertinent part:

All expenditures for aid to dependent children pursuant to Chapter 5107. of the Revised Code except expenditures for county administration shall be paid by the state treasurer on warrants drawn by the auditor of state, unless the director of public welfare determines that warrants for aid payments and health care should be issued by the county. If the director so determines, he shall issue an order to that effect and expenditures made after the effective date of his order shall be made by the county treasurer on the warrant of the county auditor. The department of public welfare shall

thereafter advance from state and federal funds sufficient funds to provide the county treasurer with the amount estimated to represent the state and federal shares of such expenditures. State and federal funds received by the county shall be deposited in the public assistance fund established by section 5101.161 of the Revised Code and all expenditures shall be made from such fund. Expenditures for county administration pursuant to such chapters shall be paid by the county treasurer on warrant of the county auditor. The county share of such expenditures shall be determined in the following manner:

(A) Federal reimbursement for assistance and health care shall be credited to each county by multiplying the number of recipients in the county by the statewide average reimbursement. The statewide average for each program is the amount derived by dividing the total amount of federal reimbursement by the total number of recipients in the state. Federal reimbursement for county administrative costs shall be credited to each county according to the ratio of approved administrative costs in the county to the approved administrative costs in the state as a whole.

(B) The county share of expenditures pursuant to Chapter 5107. of the Revised Code shall be a maximum of ten per cent of the difference between the total expenditures chargeable to the county and the amount credited to the county from federal funds. . . .

The director of public welfare shall determine the kinds and the amounts of expenditures pursuant to Chapter 5113. of the Revised Code on which state reimbursement shall be computed.

The county share of expenditures pursuant to Chapter 5113. of the Revised Code shall be a percentage of those expenditures determined by the director of public welfare to be subject to state reimbursement and the total amount of any expenditures that are not approved by the director for state reimbursement. The county percentage of poor relief expenditures shall be two and one-half times the county percentage as determined by division (B) of this section.

The county share of expenditures shall be limited to one hundred twenty per cent of the county share of the preceding calendar year.

R.C. 5101.16 sets forth a scheme for calculating the county's share of expenditures under R.C. Chapters 5107 and 5113 based, in part, upon the amount available for federal and state reimbursement for such expenditures. Such scheme clearly contemplates that a portion of expenditures for Aid to Dependent Children (R.C. Chapter 5107) and Poor Relief (R.C. Chapter 5113) is the responsibility of the county. See Robinson v. Rhodes, 424 F. Supp. at 1188 ("[f]unding for the [Poor Relief] program comes primarily from state funds. Each county is required to provide a specified portion of the total expenditures in that county for [poor] relief, as determined by a specific formula. See O.R.C. §5101.16(B)"). Similarly, the state is responsible for payment of various costs of Aid to Dependent Children and Poor Relief. R.C. 5101.16. Further, as discussed above, payment of federal and state funds to the county by the state under R.C. 5101.161 is merely an estimate of the actual amount payable to the county and is subject to adjustment in the second following quarter. A county is entitled to payment by the state only for actual expenses which are reimbursable from state and federal funds. A construction of R.C. 5101.161 which would allocate to the county any balance or deficit in the public assistance fund at the end of a fiscal year, regardless of the source of such balance or deficit, would make the county's share of welfare expenditures dependent upon the precision of the estimates of the Department of Public Welfare in advancing funds to the county under R.C. 5101.161, rather than upon the formula set forth in R.C. 5101.16. In light of the legislature's specific provision for the method of computing a county's share of expenditures for Aid to Dependent Children and Poor Relief, such a construction is clearly unreasonable and should, therefore, be rejected. See R.C. 1.47(C) (it is presumed that the legislature in enacting a statute intended a just and reasonable result). See also Gulf Oil Corp. v. Kosydar, 44 Ohio St. 2d 208, 217, 339 N.E.2d 820, 825 (1975) ("[i]t is the duty of the courts, if the

language of a statute fairly permits or unless restrained by the clear language thereof, to so construe a statute as to avoid unreasonable or absurd consequences").

Upon reading the provision of R.C. 5101.161 concerning the county's duty to appropriate its share of expenditures, as defined in R.C. 5101.16, in the context of the statutory scheme governing the apportionment of the federal, state and county shares of expenditures under R.C. Chapters 5107 and 5113 and the payment of the federal and state shares of such expenditures to the county, it becomes apparent that the term "balance or deficit in the public assistance fund" refers to the balance or deficit in such fund after adjustment of payments of federal and state funds by the Department of Public Welfare in the manner set forth in R.C. 5101.161.

It is, therefore, my opinion, and you are advised, that pursuant to R.C. 5101.161, the board of county commissioners, at the beginning of the fiscal year, shall appropriate the amount certified by the Department of Public Welfare as necessary to meet the county's share, as defined in R.C. 5101.16, of expenditures for aid, health care and administration under R.C. Chapters 5107 and 5113, such amount to be reduced or increased by the amount of the balance or deficit in the public assistance fund at the end of the preceding fiscal year. The balance or deficit in such fund at the end of the fiscal year is the balance or deficit remaining after adjustments for that fiscal year are made by the Department of Public Welfare in accordance with R.C. 5101.161.

³ I appreciate that the county will not know at the beginning of the fiscal year the actual balance or deficit remaining in the public assistance fund from the previous fiscal year, since the adjustments by the Department of Public Welfare for the final two quarters of a fiscal year are not made until the next year. The county, however, has a statutory duty to provide the county share, as defined in R.C. 5101.16, of expenditures for R.C. Chapters 5107 and 5113, and must, therefore, have such funds available. In order to ensure that such funds will be available to meet the county's share, it may be advisable for the county to appropriate the entire amount certified by the Department of Public Welfare as necessary to meet the county's share and later to amend such appropriation, pursuant to R.C. 5705.40, to reflect the adjustments made by the Department of Public Welfare for the preceding fiscal year. See 1959 Op. Att'y Gen. No. 349, p. 198 (syllabus) ("[w]here the county commissioners have, pursuant to the provisions of [R.C. 5705.38], made an annual appropriation covering the amount of the allowed payrolls for clerks, deputies and other employees in the county offices, the county commissioners have authority under [R.C. 5705.40] to amend and reduce such appropriations"). See generally 1933 Op. Att'y Gen. No. 192, vol. I, p. 239 (county commissioners may change the amount of any appropriation, so long as that change violates no laws which govern the taxing authority in making an original appropriation and such change does not reduce the appropriation below an amount sufficient to cover all unliquidated contracts and obligations certified from or against the appropriation).