

those specifically mentioned. But this rule must be discarded where the legislative intention is plain to the contrary."

Therefore, in light of the above, and in specific answer to your inquiry, I am of the opinion that Section 1031 of the General Code includes by implication convalescent and rest homes and should be inspected by the Department of Industrial Relations.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1126.

POOR RELIEF FUNDS—BOARDS OF TOWNSHIP TRUSTEES  
—AUTHORIZED TO TRANSFER TO COUNTY FOR SUCH  
PURPOSE—LANGUAGE SECTION 5625-13h G. C. PERMISSIVE  
NOT MANDATORY—STATUS WHERE LEGAL DIS-  
POSITION OF SUCH FUNDS.

**SYLLABUS:**

1. *Boards of township trustees are authorized by Section 5625-13h, General Code, to transfer any poor relief funds in their possession to the county for poor relief purposes.*

2. *The language of Section 5625-13h, General Code, is permissive and not mandatory. Such section does not require the board of township trustees to transfer to the county poor relief funds in its custody when such funds may otherwise be legally used. See Opinion 1484, December 1, 1939, page 2189.*

COLUMBUS, OHIO, September 2, 1939.

HONORABLE THOMAS J. O'CONNOR, *Prosecuting Attorney, Toledo, Ohio.*

DEAR SIR: Your request for my opinion reads:

"On July 1, 1939, the date when amended substitute house bill No. 675 became effective, some of the townships of Lucas County still had unexpended funds remaining in the poor relief fund which they had established, for the year 1939.

Can they legally turn the balance of these funds over to the county to be used by it for relief purposes *in the township from which it came?*

If your answer to the above question is in the affirmative, are they required to turn such unexpended balances over to the county?"

Section 5625-13h, General Code, reads as follows:

“In addition to the provisions of sections 5625-13 and 5625-13a, and any other sections of the General Code, relating to the transfer of funds within or between subdivisions, the board of county commissioners of any county, the council or other legislative authority of any municipal corporation, and the trustees of any township not furnishing poor relief, upon a vote of two-thirds of the members of the board of county commissioners of any county, the council of any municipal corporation or the board of trustees of any township may transfer poor relief funds or any other funds not otherwise appropriated, to the county, municipal corporation, or township furnishing poor relief; provided, however, that transfers by the board of county commissioners shall be to municipal corporations or townships located within the county, transfers by township trustees shall be to the county in which the township is located or to municipal corporations located wholly or in part within the township, and transfers by municipal corporations shall be to the county or counties or the townships in which such municipal corporations are located in whole or in part. Immediately upon receipt of notice of the action of the legislative authority transferring funds, the officer of the political subdivision making such transfer, who is charged with the duty of distributing the funds thereof, shall make distribution in accordance therewith.

Funds received pursuant to any transfer under this section shall be credited to the poor relief fund of the transferee subdivision and shall be expended solely for the purposes of poor relief.

Nothing in this act shall be construed to mean that any subdivision is authorized to transfer to any other subdivisions funds for relief purposes that the transferring subdivision is not authorized to expend in its own subdivision for purposes of relief.”

Such section specifically authorizes the transfer of poor relief funds to the county by a township which is not furnishing poor relief. Since the enactment of H. B. 675 by the present General Assembly, township trustees are not authorized to furnish poor relief. It is clearly apparent that the board of township trustees may, by a two-thirds vote, transfer any balance in its poor relief fund to the county, which now has the duty to furnish poor relief to the needy inhabitants of such township.

The fact that in your request you have underscored the phrase “in the township from which it came” would appear to indicate that you want to know whether the board of township trustees may restrict

the use of the fund so transferred so that it may be used only for the benefit of the needy residing in such township.

While Section 3391-2, General Code, provides that poor relief must be dispensed by the county local relief authority on a budgetary basis, I find no language in the statutes which would seem to prevent the county from accepting a transfer of funds to it, even though the manner of expenditure of such funds is limited to a particular use if such use be one for which the county has a duty to expend its funds. I am therefore persuaded to answer your first inquiry in the affirmative.

Your second inquiry as to whether it is mandatory for the township trustees to transfer the unused balance of its poor relief funds to the county, since the enactment of H. B. 675 by the present General Assembly presents more difficulty.

It must be borne in mind that moneys derived from taxation must be expended for the purpose for which they were levied. Article XII, Section 5, Constitution of Ohio. The excise tax levied by the Legislature against public utility corporations by Am. S. B. 462 of the 92nd General Assembly (117 O. L. 868), was levied for the specific purpose of poor relief. The tax levied by Section 5545-2, General Code, on the sale of malt was in part for the specific purpose of poor relief. The tax levied by Section 6212-49b, General Code, was in part for the purpose of poor relief. There may have been other levies for the purpose of poor relief. The constitutional provision above referred to would inhibit such funds from being used for any other purpose than poor relief, or the payment of bonds or notes issued in anticipation of the receipt thereof. To the extent that the funds in the possession of the township were derived from levies of taxes for poor relief, it is evident that they may be used only for the purpose of paying bonds issued by the township to obtain funds for poor relief purposes or for poor relief, and may not be used for any other purpose. It may be that a township may have no "poor relief bonds" outstanding and still have funds in its treasury which were derived from taxes levied for the specific purpose of poor relief and that the only present practical method of putting such funds to poor relief purposes may be by transfer to the county.

Assuming for the purposes of this opinion that the funds in the possession of the township were not derived from the taxes levied for the specific purpose of poor relief, your inquiry will require an interpretation of Section 5625-13h, General Code, *supra*, to determine whether the provisions are mandatory. The statute provides that the township "may transfer poor relief funds \* \* \* to the county \* \* \*." While I am not unmindful of the fact that the term "may" is sometimes to be read as mandatory, especially where the public good requires it, the ordinary meaning of the term connotes permission. *Bond vs. Ohio Farmers Ins. Co.*, 12 O. App., 39; *Wright v. Erie R. Co.*, 14 O. App., 217. It is likewise a rule of statutory interpretation that the terms

“may” and “shall” are to be given their ordinary meaning unless the context clearly shows that a different meaning was intended. State ex rel. Methodist Children’s Home Assn. v. Board of Education, 105 O. S., 438; State ex rel. Mitman v. Commissioners, 94 O. S., 296. As held in Sifford v. Beatty, 12 O. S., 189, the word “may” in a statute does not necessarily mean “shall”.

In examining the context in which the permissive term is found, we find that the Legislature has required the board of township trustees to have a two-thirds vote of its members before the transfer may be made. We further find that the Legislature has given such board the right, in the event they decide to transfer the fund, to transfer it either to the county or to a municipal corporation or corporations lying partially in such township. It is further to be noted that such Section 5625-13h not only authorizes the transfer of township funds, but other available moneys to the county for poor relief purposes. It would be a highly strained construction to hold that such section required the township to transfer all of its unencumbered funds to the county for poor relief. Yet, such might result if the term “may” were to be construed as mandatory. By reason of such considerations, I am not persuaded that the context requires the word “may” in the section to be construed as mandatory.

Specifically answering your inquiry, it is my opinion that :

1. Boards of township trustees are authorized by Section 5625-13h, General Code, to transfer any poor relief funds in their possession to the county for poor relief purposes.

2. The language of section 5625-13h, General Code, is permissive and not mandatory. Such section does not require the board of township trustees to transfer to the county poor relief funds in its custody when such funds may otherwise be legally used.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*