

December, 1938, and provides for a monthly rental of \$30.00.

Each of these leases has been properly executed and inasmuch as the form of the same is in conformity to law and the leases are accompanied by a contract encumbrance record in proper form, the leases are approved and are herewith returned to you.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

222.

SEWING RELIEF WORKERS—COUNTY CANNOT PAY FOR MATERIALS UNDER HOUSE BILL No. 501—STATE RELIEF COMMISSION EXPIRED—HOUSE BILL No. 663 App. 7-22-36.

SYLLABUS:

1. *No expenditure for materials to be used by women working for WPA in making up clothing for the needy poor of a county could ever have been made from the proceeds of the sale of bonds issued under authority of House Bill 501, approved June 5, 1935, unless authorized by the State Relief Commission.*

2. *The State Relief Commission, existing by virtue of the provisions of House Bill 663, approved July 22, 1936, had no authority after January 31, 1937.*

COLUMBUS, OHIO, March 9, 1937.

HON. T. B. WILLIAMS, *Prosecuting Attorney, New Lexington, Ohio.*

DEAR SIR: Your communication of recent date requesting my opinion, reads as follows:

“The county commissioners of this county have been notified that after the first of the year that all ‘Sewing Relief Workers’ will be ‘cut off’ from further service unless the county commissioners will pay for all the sewing necessary. All women working on the WPA sewing relief have been paid \$44.00 per month and the Government furnishes the material to be sewed up for distribution among the poor.

I know of no statute whereby the county can legally purchase such material which will cost probably \$700.00 per month in this small county.

Our county funds are in such a shape that the county could not pay for the material unless the same could be paid out of bonds issued under H. B. 501.

The question therefore is, Can the county after January legally furnish material to be used by the women working for WPA in making up clothes and etc., to furnish to the needy poor 'of the county,' and if so can it be paid out of money realized from the sale of bonds under H. B. 501?"

House Bill 501, in Section 6 thereof provides that in no case proceeds of bonds issued thereunder may be spent, except under regulations prescribed by the State Relief Commission and in no event after December 1, 1936. While your request does not state whether this provision of the law has been complied with, proceeding upon the presumption that such permission has been received by the State Relief Commission, it may be well to consider as to what extent that Commission was authorized to give such permission.

Section 7, Paragraph 1 of House Bill 501, approved June 5, 1935, reads in part, as follows:

"At any time after such approval and in accordance therewith and prior to the 31st day of December, 1936, the county commissioners of any county shall from time to time, distribute such portion of said fund to any or all of the cities (whether charter cities or otherwise) and townships of such county, according to their relative needs for poor relief as determined by such county and as set out in such approved budget; such money so distributed to any city or township shall be expended for poor relief in such city or township, including the renting of land and the purchase of sites for gardening for the unemployed and for no other purpose."

The language of this section of the act is very definite and would seem to exclude the purchase of material to be used by the women working for WPA in making up clothing for the needy poor.

House Bill 663, approved July 22, 1936, created a State Relief Commission to serve until January 31, 1937, and empowered that commission to perform, among other duties, the one of cooperation with agencies of the national and local government, with other divisions in the department of state government and with private organizations engaged

in the administration of financial support of activities, either directly or indirectly, for the relief, care or assistance of dependents and to co-ordinate its efforts therewith, so far as it seems practical and advisable, and further directed that the proceeds of bonds under House Bill 501, which were paid into the county relief fund, should be used according to the provisions of House Bill 663 and not otherwise.

Section 1, p. 3 of said act reads as follows:

“No part of the funds authorized to be expended for work relief or direct relief shall be expended for supplies, materials or machinery, unless authorized by the State Relief Commission.”

Section 5, p. 2 of the act provided that no other public funds should be expended for the purpose of salaries, compensation or other administrative expense, provided, however, that any materials, supplies or equipment contributed to any governmental work relief project, should not be considered as administrative expense. It is, therefore, considered that the intention of the act which provided for the purchase of the materials referred to in your request, were those materials which were used in a work relief project to furnish the needy poor with clothing. However, Section 2 of House Bill 663, *supra*, definitely limited the life of the State Relief Commission to January 31, 1937.

Amended Substitute House Bill No. 65, approved February 11, 1937, created a state relief commission to serve until April 5, 1937. Section 4 thereof reads in part as follows:

“In order to qualify for, and be permitted to receive any advances, distributions or allocations herein provided, each county shall, *upon the effective date of this act*, transfer the unexpended or unencumbered balance of any moneys in its ‘emergency poor relief fund’ or in its ‘county poor relief excise fund,’ to the within created ‘county relief fund’ and, thereafter, all such moneys shall be used for poor relief according to the provisions of this act and not otherwise.”

It naturally follows that by the transfer of the unexpended or unencumbered balances in the former “emergency poor relief fund” or “county relief fund” these funds become expendable under the provisions of the last mentioned act. Section 1 thereof reads in part as follows:

“No part of the funds authorized to be expended for work relief or direct relief shall be expended for supplies, materials

or machinery *unless authorized by the state relief commission.*

Subject to the provisions of this act, poor relief may take the form of either work or direct relief or both and may be provided through the furnishing of commodities and services to the persons aided."

It is therefore my opinion that since January 31, 1937, and until the effective date of Amended Substitute House Bill No. 65, *supra*, no proceeds of bonds issued under the provisions of House Bill 501 could have properly been expended for the purchase of materials to be used by the women working for WPA making up clothing for the needy poor of your county, and that since the effective date of Amended Substitute House Bill No. 65, namely February 11, 1937, proceeds of bonds issued under and by authority of House Bill 501 may properly be expended for such purposes until April 15, 1937, after proper permission has been obtained by the State Relief Commission.

Respectfully,

HERBERT S. DUFFY,
Attorney General

223.

COUNTY WARRANTS, LOST—ISSUANCE OF DUPLICATE WARRANT—AUDITOR MAY REQUIRE BOND OF INDEMNITY—AUDITOR'S WARRANT IS NOT A CHECK.

SYLLABUS:

1. *In the event a warrant issued by a county auditor upon the county treasury is lost or destroyed before redemption, there is no mandatory duty imposed upon the county auditor to require that there be issued to him an indemnity bond to insure himself against any loss occasioned by reason of issuance of a duplicate warrant, should the auditor, in his discretion, see fit to issue such duplicate warrant; but the auditor may refuse to issue such duplicate warrant in the absence of such bond. Opinions of the Attorney General, 1915, Vol. 1, page 553 overruled and Opinions of the Attorney General, 1922, Vol. 1, page 481 followed.*

2. *A county auditor's warrant is not a check within the meaning of Section 8291, General Code and, therefore, the provisions of Section 8291 are not applicable to it.*