1544.

APPROVAL, RESERVOIR LAND LEASE AT INDIAN LAKE, LOGAN COUNTY, OHIO, FOR RIGHT TO OCCUPY AND USE FOR COTTAGE SITE AND DOCKLANDING PURPOSES—E. M. WRIGHT.

COLUMBUS, OHIO, September 12, 1933.

HON. EARL H. HANEFELD, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of a recent communication over the signature of the Chief of the Bureau of Inland Lakes and Parks of the Division of Conservation in your department, submitting for my examination and approval a reservoir land lease in triplicate executed by the conservation commissioner to one E. M. Wright, of Springfield, Ohio. By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of thirty dollars, payable semi-annually, there is granted and demised to the lessee above named the right to occupy and use for cottage site and docklanding purposes a parcel of state reservoir land including lot No. 36 of the Revised Plat of Minnewauken Island in Indian Lake; said island being part of Virginia Military Survey No. 12276, in Stokes Township, Logan County, Ohio.

Upon examination of this lease, I find that the same has been properly executed by the conservation commissioner and by E. M. Wright, lessee, therein named. I also find upon examination of the provisions of this lease and all the conditions and restrictions therein contained that the same are in conformity with section 471, General Code, under the authority of which this lease is executed, and with other statutory enactments relating to leases of this kind.

I am accordingly approving this lease as to legality and form as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1545.

GENERAL HEALTH DISTRICT—SECTIONS 1261-40, 5625-5 AND 5625-20, G. C., ARE IN PARI MATERIA, AND MUST BE CONSTRUED TOGETHER TO GIVE EFFECT TO PROVISIONS OF EACH—COUNTY AUDITOR TO RETAIN REQUIRED SUM FOR HEALTH DISTRICT IN SEMI-ANNUAL APPORTIONMENT OF FUNDS ALTHOUGH COUNTY TREASURER HAS NOT COLLECTED FULL AMOUNT OF TAX LEVY.

SYLLABUS:

1. *Sections* 1261-40, 5625-5 *and* 5625-20, *General Code, are in pari materia, and must be construed together, in such manner as to give effect to the provisions of each.*

2. *By virtue of the provisions of Sections* 1261-40, 5625-5 *and* 5625-10, *General Code, the county auditor, in making his semi-annual apportionment of funds col-*

lected by the county treasurer, must retain from the sum to be apportioned to each township or village which is a part of a general health district, for its general operating fund, one-half of the amount of taxes for the maintenance and operation of such health district allocated to, and included in the tax levy of such taxing subdivision, even though the county treasurer has been unable to collect the entire amount of taxes levied by such subdivision for its general operating fund.

COLUMBUS, OHIO, September 13, 1933.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your request for my opinion which reads as follows:

> "Under the provisions of Section 1261-40 of the General Code, a board of health of a general health district, makes and submits an estimate of the amount needed for the current expenses of such district for the fiscal year beginning January next after the submission of such budget. It is further provided in this section that when the county auditor makes his semi-annual apportionment of funds, he shall retain from each semi-annual settlement one-half of the amount apportioned to each township and municipality, and vest the same in the county treasury to the credit of the district health fund.
>
> Question: In view of the provisions of Sections 5625-5 and 5625-20, of the General Code, shall the county auditor deduct from the levies made by the township or village the whole amount certified to such township or village under Section 1261-40, or only the proportionate amount represented by the proportion of taxes collected in said township or village?"

Section 1261-40, General Code, referred to in your inquiry, in so far as is material to your inquiry, reads:

> "The board of health of a general health district shall annually, on or before the first Monday of April, estimate in itemized form the amounts needed for the current expenses of such districts for the fiscal year beginning on the first day of January next ensuing. Such estimate shall be certified to the county auditor and by him submitted to the budget commissioners which may reduce any item or items in such estimate but may not increase any item of the aggregate of all items. The aggregate amount as fixed by the budget commissioners shall be apportioned by the county auditor among the townships and municipalities composing the health district on the basis of taxable valuations in such townships and municipalities.
>
> The district board of health shall certify to the county auditor the amount due from the state as its share of the salaries of the district health commissioner and public health nurse and clerk, if employed, for the next fiscal year which shall be deducted from the total of such estimate before an apportionment is made. The county auditor, when making his semi-annual apportionment of funds shall retain at each such semi-annual apportionment one-half the amount so apportioned to each township and municipality. Such monies shall be placed in a separate fund, to be known as the 'district health fund.'

When a general health district is composed of townships and municipalities in two or more counties, the county auditor making the original apportionment shall certify to the auditor of each county concerned the amount apportioned to each township and municipality in such county. Each auditor shall withhold from the semi-annual apportionment to each such township or municipality the amount so certified, and shall pay the amounts so withheld to the custodian of the funds of the health district concerned, to be credited to the district health fund. * *"

One of my predecessors in office, in an opinion rendered under date of March 6, 1920, to the Prosecuting Attorney of Gallia County, (O. A. G., Vol. 1, p. 252) in interpreting Section 1261-40, General Code, held, as stated in the syllabus:

"County auditors, when making their semi-annual apportionment of funds, shall retain at each such semi-annual apportionment one-half the amount of the estimate for health purposes apportioned to each township and municipality, as provided in section 1261-40 G. C. (Griswold act) from the general funds due to such township and municipality."

The same attorney general in an opinion contained in Opinions of the Attorney General for 1919, Vol. 2, p. 1081, similarly held, as stated in the third paragraph of the syllabus:

"At the semi-annual settlements after January 1, 1920, the county auditor shall withhold from the proper funds due each tax subdivision (except those raised by levies for other specially designated purposes) one-half of the amount of health district expense estimates apportioned by him against such subdivisions on the basis of population."

In view of the opinions of my predecessor in office and the reasoning by which they were deduced, I am inclined to agree with the conclusions therein expressed except to the extent that subsequent legislative enactments may require a departure therefrom. Section 5625-5, General Code, was enacted in 1927 (112 O. L. 393) becoming effective August 10th, 1927, while Section 1261-40, General Code, was enacted in 1919 (108 O. L. Pt. 1, 244; 108 O. L. Pt. 2, 244). If such sections are inconsistent, and cannot be reconciled by a reasonable interpretation, the provisions of Section 5625-5, General Code, must prevail. Section 5625-5, General Code, sets forth the purpose and intent of "the general levy for current expenses" by a subdivision, and in so far as is material to your inquiry, reads:

"Without prejudice to the generality of the authority to levy a general tax for any current expense, such general levy shall include the amounts certified to be necessary * * for boards and commissioners of health, and other special or district appropriating authorities deriving their revenue in whole or part from the subdivision; * *"

The effect of such section is to require the inclusion of the item of tax for a general health district in the assessment for the general fund of the subdivision. It would appear to me that the effect of such section would be to limit the county auditor in making his deduction, to funds levied and collected for the current expenses of the subdivision as defined by such Section 5625-5, General Code.

Your inquiry further requires an examination of the provisions of Sections 5625-10, General Code, for the purpose of determining whether its provisions are irreconcilable with the provisions of Section 1261-40, General Code. Such section reads:

> "The total amount of appropriations from each fund shall not exceed the total of the estimated revenue available for expenditure therefrom as certified by the budget commission or in case of appeal by the tax commission of Ohio. No appropriation measure shall become effective until there be filed with the appropriating authority by the county auditor a certificate that the total appropriation from each fund taken together with all other outstanding appropriations, do not exceed such official estimate, and if amended the last amended official estimate, and in every case in which the appropriation does not exceed such official estimate, the county auditor shall give such certificate forthwith upon receiving from the appropriating authority a certified copy of the appropriation measure. Appropriations shall be made from each fund only for the purposes for which such fund is established."

In the seventh paragraph of the headnotes of the case of *State of Indiana* vs. *Gearhart,* 145 Ind. 439; 33 L. R. A. 278, as reported in 33 L. R. A. a rule of law applicable to the principles herein involved is aptly stated:

> "Statutes relating to the same thing, or general subject matter are to be construed together, and are in pari materia no matter when they were passed."

The sections of the statute in question (§§1261-40, 5625-5 and 5625-20, G. C.), even though enacted at different times, all relate to the same thing or same subject matter, that is, the levy of taxes for a health district. They must, therefore, be construed together. As stated by Williams C. J., in *City of Cincinnati* vs. *Connor,* 55 O. S. 82, 89:

> "It is an equally well established rule, that the provisions of a statute are to be construed in connection with all laws in pari materia, and especially with reference to the system of legislation of which they form a part, and so that all the provisions may, if possible, have operation according to their plain import. It is to be presumed that a code of statutes relating to one subject, was governed by one spirit and policy, and intended to be consistent and harmonious, in its several parts. And where, in a code or system of laws relating to a particular subject, a general policy is plainly declared, special provisions should, when possible, be given a construction which will bring them in harmony with that policy."

See also 25 R. C. L. 1052, §277.

It would appear to be a reasonable interpretation of such sections if Sections 1261-40, 5625-5 and 5625-10, General Code, were construed to require the board of health of a general health district to certify on or before the first Monday in April of each year, its estimated budget for the next ensuing year, to the county auditor, who submits such estimate to the budget commissioners. Upon approval of the budget by the budget commission the county auditor is then required to

allocate such approved budget among the various taxing subdivisions comprising such general health district for inclusion in their tax budgets along with other items comprising the item for current expenses filed with the budget commission on or before July 15th; then the county auditor, when making his semi-annual apportionment of funds shall retain a sum equal to one-half the amount so apportioned to a particular subdivision from the funds collected for the purposes of the general operating fund of such subdivision. If such is a reasonable construction of the language of such sections, it will permit each of such sections to remain effective, and comply with the rules of interpretation of statutes as hereinbefore set forth.

The language of Sections 1261-40, 5625-5 and 5625-20, General Code, when so construed, does not contemplate a levy of tax for the particular purpose of a general health district, but rather makes it a part of the levy of the subdivision for the general operating fund of the subdivision. The provision of Section 1261-40, General Code, is specific that one-half of the amount shall be deducted by the county auditor when making his semi-annual apportionment of taxes to taxing subdivisions. There is no language in such section which, without the addition of other language, could be interpreted as expressing a legislative intent to require the auditor to withhold a lesser amount than that provided, which lesser amount would depend upon the extent of tax delinquencies.

Specifically answering your inquiry it is my opinion that:

(1) Sections 1261-40, 5625-5 and 5625-20, General Code, are in pari materia, and must be construed together, in such manner as to give effect to the provisions of each.

(2) By virtue of the provisions of Sections 1261-40, 5625-5 and 5625-10, General Code, the county auditor, in making his semi-annual apportionment of funds collected by the county treasurer must retain from the sum to be apportioned to each township or village which is a part of a general health district, for its general operating fund, one-half of the amount of taxes for the maintenance and operation of such health district allocated to, and included in the tax levy of such taxing subdivision, even though the county treasurer has been unable to collect the entire amount of taxes levied by such subdivision for its general operating fund.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1546.

COUNTY RECORDER—FILING OF ASSIGNMENT OF WAGES AND CHATTEL MORTGAGE—SINGLE FILING FEE CHARGED THEREFOR—NO FEE FOR NOTING CANCELLATION OF CHATTEL MORTGAGE.

SYLLABUS:

1. *When in the same indenture there is contained an assignment of wages as described in Sections* 6346-1 *et seq., General Code, and also a chattel mortgage, such document is but a single instrument within the meaning of the statutes of Ohio with reference to the filing of instruments with the county recorder, and a single filing fee should be charged therefor. However, it should be so indexed as to indicate that the instrument filed is a chattel mortgage and assignment of wages, and should be refiled each year in order to retain the priority of the wage assignment.*