

OPINION NO. 80-086**Syllabus:**

The board of county commissioners must provide and pay for utilities used by the general health district of the county. (1972 Op. Att'y Gen. No. 72-098 approved and followed.)

To: Fred W. Crow, III, Meigs County Pros. Atty., Pomeroy, Ohio
By: William J. Brown, Attorney General, December 17, 1980

I am in receipt of your letter of October 31, 1980, in which you request a formal opinion regarding the duty to provide payment for utilities used by the Meigs County General Health District. In particular, you ask whether such payment is the responsibility of the Meigs County Board of Commissioners or the Meigs County General Health District.

R.C. 3709.34 provides that "[t]he board of county commissioners or the legislative authority of any city may furnish suitable quarters for any board of health or health department having jurisdiction over all or a major part of such county or city." Pursuant to R.C. 3709.01, a general health district has jurisdiction over all townships and villages within the county. Such a district would, therefore, fall within the purview of R.C. 3709.34. In 1972 Op. Att'y Gen. No. 72-098, I examined the relevant statutes and cases which have interpreted the word "may" in

this context and concluded that "[a] board of county commissioners must provide suitable quarters for the county health department." (Emphasis added.) I hereby affirm that conclusion.

A discussion of what constitutes suitable quarters for a health district appears in 1949 Op. Att'y Gen. No. 1085, p. 737. In paragraph two of the syllabus of that opinion, a prior Attorney General concluded that "[o]ffice space without running water, toilet facilities, heat and light is not 'suitable quarters' for a general health district within the purview of Section 1261-36, General Code." See also 1932 Op. Att'y Gen. No. 3989, vol. I, p. 106. G.C. 1261-36 is a prior enactment of R.C. 3709.34, and is almost identical in language to the current provision. Thus, it is clear that the definition of what constituted suitable quarters for purposes of G.C. 1261-36, as discussed in 1949 Op. No. 1085, is also applicable to R.C. 3709.34. I concur with my predecessor's conclusion that a board of county commissioners must provide the general health district with office space which includes running water, toilet facilities, heat and light.

There can be no doubt that the obligation to provide utilities includes the obligation to pay for the use of such utilities. Therefore, it is my opinion, and you are advised, that the board of county commissioners must provide and pay for utilities used by the general health district of the county. (1972 Op. Att'y Gen. No. 72-098 approved and followed).