

OPINION NO. 80-049**Syllabus:**

By the authority of R.C. 1.51, the provisions of R.C. 2501.181 pertaining to the procedure to be followed when paying expenses of the district court of appeals must be read as an exception to R.C. 321.15, since the provisions of these two sections are in irreparable conflict. The treasurer of any county in an appellate district is authorized, pursuant to R.C. 2501.181, to pay out moneys on the warrant of the auditor of the county selected as the principal seat of the court of appeals. There is no need for the county treasurer to obtain a warrant from the auditor of his own county or to obtain authorization by the board of county commissioners of his own county for such payment.

To: James R. Unger, Stark County Pros. Atty., Canton, Ohio

By: William J. Brown, Attorney General, September 5, 1980

I have before me your request for an opinion regarding the procedure to be followed by the counties of an appellate court district when paying their respective shares of the court's expenses. Your specific questions are:

1. Can the county treasurer of any of the fourteen counties in the Fifth Appellate District pay out monies on the warrant of the auditor of Stark County as provided by section 2501.181 as a special statutory procedure or does section 321.15 prohibit such response?

2. Does the limitation contained in Section 321.15 require the Auditor of Stark County to bill each of the fourteen counties under section 2501.181 for their share of expenses for the support of the principal seat of the Fifth Appellate District in Stark County, Ohio and is the treasurer of each county to pay out such proportionate share upon a warrant issued by his county auditor after authorization by his Board of County Commissioners?

Your questions pertain to the payment of expenses for a court of appeals which has selected one of the counties of the district as its principal seat. R.C. 2501.181 provides for the auditor of the county selected as the principal seat to obtain payment for expenses of operation of the court from other counties within the district, and your inquiries relate to the proper method for such payment.

You state that there is a direct conflict in the language of R.C. 321.15 and R.C. 2501.181. R.C. 321.15 is a general provision prohibiting the payment of money from the county treasury except upon warrant of the county auditor. It provides in part: "No money shall be paid from the county treasury, or transferred to any person for disbursement, except on the warrant of the county auditor."

R.C. 2501.181 contains provisions dealing specifically with the payment of expenses of operating a court of appeals. It states in pertinent part:

(B) . . . The auditor of the county selected as the principal seat of a court of appeals shall, annually, calculate the share of the court's expenses owed by each of the other counties in the district, and shall issue his warrant for the proper amount to the treasurer of each such county. The share of each county shall be paid on such warrant into the treasury of the county selected as the principal seat of the court. (Emphasis added.)

These two sections do in fact provide the county treasurer with conflicting duties. The restricting language of R.C. 321.15 prohibits the treasurer from paying money from the county treasury except upon the warrant of his own county's auditor. While the language of R.C. 2501.181 is not so direct, it clearly instructs the auditor of the county selected as the principal seat of the court of appeals to issue a warrant to the treasurer of each other county within the district. The statute then requires that "[t]he share of each county shall be paid on such warrant" (emphasis added). Although this language is not addressed to the treasurer, it is clear from the fact that the treasurer is the one to whom the warrant is issued, and from the fact that the treasurer has charge of payments from the county treasury, that the treasurer is to make payment on "such warrant"—namely, on the warrant received from the auditor of the county which is the principal seat of the court. Thus, under the enabling language of R.C. 2501.181, the treasurer is authorized to pay upon the warrant of the auditor of another county when paying his county's share of court of appeals expenses.

A longstanding rule of statutory construction states that a special law repeals an earlier general law to the extent of any irreconcilable conflict between their provisions. Metropolitan Securities Co. v. Warren State Bank, 117 Ohio St. 69, 158 N.E. 81 (1927); State ex rel. Crabbe v. City of Cleveland, 115 Ohio St. 484, 154 N.E. 738 (1926); Thomas v. Evans, 73 Ohio St. 140, 76 N.E. 862 (1905). In this sense the special law operates as an exception to the general one to the extent of the conflict. This rule of statutory construction is codified in R.C. 1.51, which provides:

If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.

R.C. 321.15 dates back to the Revised Statutes and General Code. G.C. 2674; R.S. 1105. It is a general restriction on the treasurer's ability to pay out money. He

may not pay except upon warrant of his county auditor. R.C. 2501.181, adopted by 1971-1972 Ohio Laws 1067 (Am. S.B.519) (eff. March 31, 1973), is clearly the more recent statute. It covers a particular purpose and subject matter and is therefore considered a special statute. See, e.g., Leach v. Collins, 123 Ohio St. 530, 176 N.E. 77 (1931). As such it creates an exception to the general restriction of R.C. 321.15. Under R.C. 321.05 and 2501.181, the treasurer may not pay funds from the treasury except upon warrant of his county auditor or upon the warrant of the auditor of the principal seat of the court of appeals for the expenses of such court. Therefore, the county treasurer of any of the fourteen counties in the Fifth Appellate District may make payment on the warrant of the auditor of Stark County for purposes of paying expenses of the court.

Your second question asks whether the auditor of the county of the principal seat of the court must bill the other counties and whether the treasurer of each county must receive a warrant issued by the auditor of his county after authorization by the commissioners of his county before he makes payment. R.C. 2501.181 clearly requires the auditor of the county of the principal seat to calculate each county's share and to issue his warrant for each county's share to the treasurer of that county. R.C. 2501.181 then requires that the county which receives the warrant make payment on the warrant. The repeated use of the word "shall" in R.C. 2501.181 clearly indicates that the procedure set forth therein is mandatory. Dorrian v. Scioto Conservancy District, 27 Ohio St. 2d 102, 271 N.E. 2d 834 (1971); Cleveland Ry. Co. v. Brescia, 100 Ohio St. 267, 126 N.E. 51 (1919). The statute nowhere suggests that action by any other official, such as the auditor or county commissioners of the county to whom the warrant is issued, is necessary to effect payment.

Where the language of a statute is plain and unambiguous on its face and conveys a clear and definite meaning, there is no occasion for resorting to rules of statutory construction. State ex rel. Stanton v. Zangerle, 117 Ohio St. 436, 159 N.E. 823 (1927); Swetland v. Miles, 101 Ohio St. 501, 130 N.E. 22 (1920); McCormick v. Alexander, 2 Ohio 66 (1825). The legislative intent of R.C. 2501.181 is clearly stated in the directive that the auditor shall issue his warrants to the treasurer of each other county in the district. It is also stated in the directive that the share of the county "shall be paid on such warrant" (emphasis added). "[S]uch warrant" is obviously the warrant issued by the auditor of the county which is the principal seat of the court. There is no statutory requirement that any other warrant be issued by the auditor of the county making payment or that the county commissioners be in any way involved in the payment.

Applying the above analysis to the situation which you have presented, I conclude that, under R.C. 2501.181, the auditor of Stark County is to issue his warrant directly to the treasurer of each of the fourteen counties in the Fifth Appellate District for that county's proportionate share of the expenses. Upon receipt of such warrant, the treasurer of each county is to pay out such proportionate share, and there is no need for the treasurer to obtain a warrant from the auditor of his own county or to obtain authorization by the board of commissioners of his own county.

In summary, it is my opinion, and you are advised, that by the authority of R.C. 1.51, the provisions of R.C. 2501.181 pertaining to the procedure to be followed when paying expenses of the district court of appeals must be read as an exception to R.C. 321.15, since the provisions of these two sections are in irreparable conflict. The treasurer of any county in an appellate district is authorized, pursuant to R.C. 2501.181, to pay out moneys on the warrant of the auditor of the county selected as the principal seat of the court of appeals. There is no need for the county treasurer to obtain a warrant from the auditor of his own county or to obtain authorization by the board of county commissioners of his own county for such payment.