

OPINION NO. 72-093

Syllabus:

A board of county commissioners is authorized by Section 307.23, Revised Code, to appropriate and contribute funds to a historical society which includes two or more counties, provided that such funds are used for the promotion of historical work solely within the county contributing the funds.

To: Robert L. Brown, Crawford County Pros. Atty., Bucyrus, Ohio
By: William J. Brown, Attorney General, October 17, 1972

I have before me your request for my opinion, which may be stated as follows:

Is a board of county commissioners authorized by Section 307.23, Revised Code, to appropriate and

contribute funds to a historical society which includes two or more counties, provided that such funds are used for the promotion of historical work solely within the county contributing the funds? If not, may a board of county commissioners of any county appropriate and contribute funds to a historical society limited to historical work solely within the county?

Section 307.23, Revised Code, which authorizes a board of county commissioners to appropriate funds for a historical society, reads in part as follows:

"The board of county commissioners of any county having a population of less than twenty-five thousand, according to the next preceding United States census, may appropriate, out of the revenue fund not otherwise appropriated, a sum not exceeding five thousand dollars annually; in counties having a population of more than twenty-five thousand and not more than one hundred thousand, according to such census, the board may appropriate a sum not exceeding eight thousand dollars annually; in counties having a population of more than one hundred thousand and not more than three hundred thousand, according to such census, the board may appropriate a sum not exceeding fifteen thousand dollars annually; in counties having a population of more than three hundred thousand, according to such census, the board may appropriate a sum not exceeding twenty-five thousand dollars annually, to be paid to the historical society of such counties respectively, to be used for the promotion of historical work within the borders of the county, and for the collection, preservation, and publication of historical material, and to disseminate historical information of the county, and in general to defray the expense of carrying on historical work in such county."
(Emphasis added.)

Your first question concerns the appropriation of funds by a board of county commissioners to a historical society which includes two or more counties. Section 307.23 is the only authority on such appropriations, and it provides that if such appropriations are made, the funds are "to be paid to the historical society of such counties respectively." This phrase implies that the funds are to be paid to the historical society which includes the county from which the funds are appropriated, regardless of whether such society also includes other counties. Since Section 307.23 contains no express provision limiting the size of a historical society for purposes of this Section, I must conclude that the number of counties included in a historical society has no effect upon the appropriation of funds to the society by the board of county commissioners of one of the included counties.

However, Section 307.23, does provide a limitation upon the use of funds appropriated and paid to a historical society by a board of county commissioners. Such funds may only be used

"for the promotion of historical work within the borders of the county, and for the collection, preservation, and publication of historical material, and to disseminate historical information of the county, and in

general to defray the expense of carrying on historical work in such county."

It appears from this Section that the main intent of the legislature was that funds appropriated and paid by a board of county commissioners to the historical society of such county must be used within the county. This intent of the legislature could be carried out just as easily by a historical society which includes several counties as by one which is composed of a single county. Thus I must conclude that a board of county commissioners is authorized by Section 307.23 to appropriate and contribute funds to a historical society which includes two or more counties, provided that such funds are used for the promotion of historical work within the county contributing the funds.

Since the answer to your first question is in the affirmative, it will not be necessary to consider your second question. It would be well to note, however, that Section 307.23 provides permissive, rather than mandatory, authority to a board of county commissioners to appropriate funds to a historical society. Thus the amount of money to be appropriated, if any, is within the sound discretion of the board, so long as the maximum amounts set out in Section 307.23 are not exceeded.

In specific answer to your question it is my opinion, and you are so advised, that a board of county commissioners is authorized by Section 307.23, Revised Code, to appropriate and contribute funds to a historical society which includes two or more counties, provided that such funds are used for the promotion of historical work solely within the county contributing the funds.