

OPINION NO. 66-006**Syllabus:**

1. A county may not, as part of its hiring contract, agree to pay the moving expenses of an individual employed by the park commissioners to work in a park district.

2. The trustees of a county hospital may pay from funds appropriated for their use for the operation of the hospital, necessary traveling expenses incurred in interviewing prospective employees.

To: Harry Friberg, Lucas County Pros. Atty., Toledo, Ohio
By: William B. Saxbe, Attorney General, January 7, 1966

I have before me your request for my opinion which reads as follows:

"1. May the county, as part of

its hiring contract with an individual, agree to pay his moving expenses? In this case, the park board needed a specialist in a particular field. It found such a man living in a community some distance away. As part of its agreement to hire the man, the board agreed to pay his moving expenses to this area.

"2. May the county, in recruiting prospective employees, agree to reimburse them for their transportation expenses to and from Toledo, their lodging and meals, while being interviewed? In this case, the county hospital was seeking to fill a staff assignment with a qualified medical doctor. The hospital was interested in talking to several men it believed qualified but could not hire all of those it wanted to interview. The hospital feels it should reimburse all applicants who were interviewed for their costs in coming to the area for the interview, which costs include transportation, meals and lodging."

Park districts are created pursuant to Section 1545.01, Revised Code, which reads as follows:

"Park districts may be created which include all or a part of the territory within a county, and the boundary lines of such district shall be so drawn as not to divide any existing township or municipal corporation within such county."

Section 1545.07, Revised Code, provides the statutory authority for a board of park commissioners to hire employees for the park district. This section reads as follows:

"The commissioners appointed in accordance with section 1545.05 of the Revised Code shall constitute the board of park commissioners of the park district. Such board shall be a body politic and corporate, and may sue and be sued as provided in sections 1545.01 to 1545.28, inclusive, of the Revised Code. Such board may employ a secretary and such other employees as are necessary in the performance of the powers conferred in such sections, and shall keep

an accurate and permanent record of all its proceedings."

Political subdivisions created by statute must adhere to the powers granted by statute and those powers which can be of necessity implied therefrom. The wording of this section only provides for hiring employees, it says nothing about fringe benefits such as moving expenses.

Where the power to hire an employee is granted, the power to discharge an employee is implied. However, implications necessary to supplement legislation should not be stretched unreasonably to imply that the authority of the park commissioners to hire carries with it the authority to pay moving expenses of employees.

In reference to your second inquiry, my predecessor in office ruled on a similar question in Opinion No. 1126, Opinions of the Attorney General for 1952, concerning the powers of a board of county hospital trustees. The opinion is authority for a very liberal interpretation of the powers of the board of county hospital trustees.

One of the five questions asked in Opinion No. 1126, supra, was as follows:

"12. Can the Board/~~Board~~ of County Hospital Trustees/~~Board~~ expend county money for the payment of the expenses of interviewing applicants for county hospital positions?"

Section 339.06, Revised Code, which relates to the operation of a county hospital by trustees encompasses almost the identical language of Section 3137, General Code, upon which Opinion No. 1126, supra, was based.

Section 339.06, supra, reads in part as follows:

"The board of county hospital trustees shall, upon completion of construction and equipping of the county hospital, assume and continue the operation of such hospital. The board of county hospital trustees shall have the entire management and control of the hospital, and shall establish such rules for its government and the admission of persons as are expedient.

"* * * * *

"The board of county hospital trustees shall employ an administrator, and, upon the nomination by such administrator, shall confirm the em-

ployment of such physicians, nurses, and other employees as are necessary for the proper care.* * *

(Emphasis added)

The then Attorney General stated beginning at page 100 of Opinion No. 1126, supra:

"It is evident that the General Assembly has intended to give the board of trustees of a county hospital very broad powers in the management of the hospital, including the authority to 'establish such rules for the government thereof as the board deems expedient.' Entire discretion is left to the board to determine the number of physicians, nurses and other employees who are necessary for the proper care, control and management of such hospital and its patients, together with authority to fix their salaries and compensation. The duty of selecting and nominating such employes is placed upon the administrator, subject to confirmation by the board of trustees. Other provisions of the section above quoted further enlarge the power and discretion of the board.

"In considering the expenses to which you refer in your first and second questions, in connection with the employment of the necessary staff, I am mindful of the fact that many of these employes are not common laborers but are persons who are specially trained and may have to be secured from a considerable distance and after very careful investigation. Obviously, in some cases, this could only be accomplished by personal interviews which might necessitate traveling expense either on the part of the superintendent or some member of the board, or on the part of the person who is under consideration for employment and who is invited in by the board for an interview."

The then Attorney General further stated at page 103:

"I am not unmindful of the general rule which limits the powers of public officers and boards created by statute quite strictly to the powers set forth

in the statutes relative thereto and to those powers that are necessarily implied therefrom, but I also recognize the principle that where powers are conferred upon a board to operate and manage an institution intended for the public welfare, a large amount of discretion must be vested in such trustees, and that the statute can not undertake to enumerate in detail every movement that they may make. In this case the statute not only gives the board of trustees 'the entire management and control of the hospital,' but gives it also the power to 'establish such rules for the government thereof as it deems expedient.'"

I am accordingly of the opinion that:

1. A county may not, as part of its hiring contract, agree to pay the moving expenses of an individual employed by the park commissioners to work in a park district.
2. The trustees of a county hospital may pay from funds appropriated for their use for the operation of the hospital, necessary traveling expenses incurred in interviewing prospective employees.