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AGRICULTURAL SOCIETY, COUNTY — REGULAR CLASS PREMIUMS PAID IN 1939 — COUNTY COMMISSIONERS MAY APPROPRIATE FUNDS IN 1941, NOT TO EXCEED \$800.00 TO REIMBURSE SOCIETY — SECTION 9880 G.C.

SYLLABUS:

The county commissioners may appropriate funds in 1941 for the payment of the sum authorized in Section 9880, General Code, for the reimbursement of a county agricultural society for the regular class premiums, not to exceed \$800.00, paid by the society in 1939.

Columbus, Ohio, July 31, 1941.

Hon. T. B. Williams, Prosecuting Attorney,
New Lexington, Ohio.

Dear Sir:

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

“We have in this county an agricultural society organized under Section 9880, General Code, and which society holds an agricultural fair in the fall of each year. On the 11th day of January, 1939, the county commissioners made an appropriation of \$800.00 for the year of 1939. Section 9884 of the General Code provides that such society shall make out its report to the Secretary of Agriculture on or about the first Thursday after the second Monday of January of each year. The first Thursday after the first Monday fell on January 12, 1940.

The report of the society was made out and filed with the Secretary of Agriculture in February, 1940, for the year 1939, and on February 11, 1940, the report was approved and a certificate was issued directing the Auditor of Perry County, Ohio, to draw his warrant on the Treasury for the sum of \$800.00 for the year 1939, but this certificate was not presented for payment until April 16, 1941, and the commissioners refused to approve the claim and the auditor refused to draw his warrant. In January, 1940, the \$800.00 which was appropriated for 1939, was appropriated for the society for the year 1940, and no certificate

from the Secretary of Agriculture was ever presented for payment out of the appropriation made for the year 1940, so in January, 1941, the commissioners appropriated the \$800.00 for the society for the year 1941. Now on April 16, 1941, the agricultural society presented the certificate issued to it on February 12, 1940, for the year 1939, and requests that said certificate be paid out of the appropriation made for the year 1941. My personal opinion is that the money can not be paid out of the appropriation made for 1941, and I am also of the opinion that the society was guilty of laches and that the county would not be legally liable. The county commissioners and auditor request that I write you for an opinion."

Your question involves Section 9880, General Code, which provides:

"When thirty or more persons, residents of a county organize themselves into a county agricultural society, which adopts a constitution and by-laws, selects the usual and proper officers, and otherwise conducts its affairs in conformity to law, and the rules of the state board of agriculture, and when such society has held an annual exhibition in accordance with Sections 9881, 9882 and 9884 of the General Code, and made proper report to the state board, then upon presentation to the county auditor, of a certificate from the president of the state board attested by the secretary thereof, that the laws of the state and the rules of the board have been complied with, the county auditor of each county wherein such agricultural societies are organized, annually shall draw an order on the treasurer of the county in favor of the president of the county agricultural society for the sum of eight hundred dollars, and the treasurer of the county shall pay it. The total amount of such order shall not exceed one hundred per cent (100%) of the amount paid in regular class premiums."

Section 9884 of the General Code, which is also pertinent to your inquiry provides:

"County societies shall publish annually an abstract of the treasurer's account, in a newspaper of the county, and make a report of their proceedings during the year. Also make a synopsis of the awards for improvement in agriculture and household manufactures which shall be made in accordance with the rules and regulations of the state board of agriculture, and be forwarded to the secretary of agriculture on or before the first Thursday after the second Monday in January of each year. No subsequent payment shall be made from the county treasury unless a certificate be presented to the county auditor, from the secretary of agriculture showing that such reports have been made."

The Board of Agriculture and the office of secretary of agriculture

were abolished by Section 154-26, General Code. The powers and duties formerly resting with these two agencies are now vested in the Department of Agriculture by virtue of Section 154-42, General Code.

It will be noted from Section 9884, General Code, that a county agricultural society has until the first Thursday after the second Monday of January of each year to file its annual report covering its activities for the preceding year. Thereupon, the Director of Agriculture, if he finds that the laws of the State and the rules of the Department of Agriculture have been complied with shall issue his certificate to that effect in accordance with Section 9880, General Code. Upon presentation of such certificate to the county auditor, such society is entitled to receive one hundred per cent (100%) of the amount paid by it in regular class premiums not to exceed \$800.00. In other words, the purpose of this payment is the reimbursement of the society for the amount expended by it in premiums. Consequently it is contemplated that the county make an appropriation each year to reimburse the society for the premiums paid by it during the preceding year.

Considering the foregoing proposition it is obvious that if the appropriation made by the county commissioners in January 1941 was for the year 1941 it can not be used for the purpose of reimbursing the society for the premiums paid by it during 1939.

The question then arises as to whether the society now is entitled to receive from the county the amount of premiums paid by such society not to exceed \$800.00 in 1939. It is obvious, of course, that an appropriation is necessary for this purpose, for it is provided in Section 5625-33, General Code, that no subdivision or taxing unit shall make any expenditure of money unless it has been appropriated as provided in the Uniform Tax Levy Law, (Sections 5625-1 to 5626-2, General Code.)

An examination of the sections I have quoted reveals that there was no intention that the society must be reimbursed the same year that the premiums are paid. This is evident from the provisions of Section 9884, General Code, by virtue of which section the society has until the first Thursday after the second Monday in January to file its annual report covering its activities for the preceding year. Thus, in many cases the certificate of the Director of Agriculture would not be issued and there-

fore could not be presented to the county auditor until the year following the period covered by the report.

There is no statutory requirement as to when such certificate must be presented to the county auditor. Furthermore, it is clear that no indebtedness arises until the presentation of the certificate in accordance with the provisions of Section 9880, General Code. Inasmuch as such presentation was made in 1941 there is involved an indebtedness of the current year. It may be that the appropriation originally made for this purpose lapsed and reverted to the general fund of the county, by virtue of the provisions of Section 5625-32, General Code. However, there is nothing in the Uniform Tax Levy Law prohibiting county commissioners from again appropriating for the same purpose.

Therefore, I am of the opinion that the county commissioners may appropriate funds in 1941 for the payment of the sum authorized in Section 9880, General Code, for the reimbursement of a county agricultural society for the regular class premiums, not to exceed \$800.00, paid by the society in 1939.

Respectfully,

THOMAS J. HERBERT,

Attorney General.