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COUNTY CONTRIBUTION — MENTAL HEALTH CLINICS —
HEALTH EXPENDITURE—LEVY—GENERAL FUND—APPRO-
PRIATION FOR ALL HEALTH PURPOSES—SECTION 5705.191,
R. C.

SYLLABUS:

An expenditure for a county's contribution for the maintenance and support, and the providing of facilities, for mental health clinics is a health expenditure and if the funds for health purposes are insufficient a levy may be made for the purpose of supplementing the general fund for the purpose of making appropriation for health under the provisions of Section 5705.191, Revised Code. Funds derived from such levy may not be earmarked for any special health purpose but are available for appropriation by the county commissioners for all health expenditures.

Columbus, Ohio, August 13, 1956

Hon. Bernard W. Freeman, Prosecuting Attorney
Huron County, Norwalk, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Section 339.65 of the Revised Code provides that the Board of County Commissioners may contribute toward the maintenance and support and the providing of facilities for mental health clinics serving their counties and approved by the State Department of Mental Hygiene and Correction.

“Section 5705.191 of the Revised Code provides for special levies for one or more of the following purposes: relief, welfare, hospitalization, health and support of general or tuberculosis hospitals.

“My question is this: May there be a special tax levy to provide money for the maintenance and support and the providing of facilities for a mental health clinic approved by the State Department of Mental Hygiene and Correction?”

Section 339.65 Revised Code reads:

“The board of county commissioners in any county, or the board of county commissioners of two or more counties acting

jointly, may contribute towards the maintenance and support, and the providing of facilities, for mental health clinics serving their counties and approved by the state department of mental hygiene and correction.

“Such clinic or clinics shall be supervised by the division of mental hygiene in the state department of mental hygiene and correction, and shall be operated under such rules and regulations governing such clinics as may be adopted by the division of mental hygiene.

“The state division of mental hygiene in the department of mental hygiene and correction may from time to time allocate and distribute funds at its disposal for the establishment and operation of mental hygiene clinics, to such county or counties which may establish such a clinic or clinics, under such rules and regulations as the division may establish and determine, subject to the provisions of sections 119.01 to 119.13, inclusive, of the Revised Code.”

Section 5705.191 Revised Code reads in pertinent part :

“Notwithstanding the provisions of any other law to the contrary, during the period from the effective date of this section until June 30, 1957, the taxing authority of any subdivision, other than the board of education of a school district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the subdivision, and that it is necessary to levy a tax in excess of such limitation for any of the purposes in section 5705.19 of the Revised Code, or to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: relief, welfare, hospitalization, health, and support of general or tuberculosis hospitals, and that the question of such additional tax levy shall be submitted to the electors of the subdivision at a general, primary or special election to be held at a time therein specified.
* * *”

Section 5705.191, Revised Code, may be utilized to supplement the general fund for the purpose of making appropriations for the purpose of health.

In view of the fact that there is no specific provision for a special levy for maintenance and support of facilities for a mental health clinic such as provided in Section 5705.20, Revised Code, for tuberculosis hospitals, and

in Section 5705.22, Revised Code, for county hospitals, the legislature in authorizing county commissioners to “contribute towards the maintenance and support, and the providing of facilities, for mental health clinics serving their counties” authorized the county commissioners to spend general fund monies as it provided no other source of funds.

Certainly in this day and age no one would doubt that mental health programs come within the meaning of “health” as contained in Section 5705.191, Revised Code. It would appear therefore that a levy could be made under Section 5705.191, Revised Code, for health purposes and such could be appropriated by the county commissioners for the county’s contribution for the maintenance and support, and the providing of facilities, for mental health clinics. However, such levy could not be specially limited for such purposes but would be available for all proper health appropriations, and funds for said purpose would be dependent on the appropriation by the county commissioners.

It is my opinion and you are advised that an expenditure for a county’s contribution for the maintenance and support, and the providing of facilities, for mental health clinics is a health expenditure and if the funds for health purposes are insufficient a levy may be made for the purpose of supplementing the general fund for the purpose of making appropriation for health under the provisions of Section 5705.191, Revised Code. Funds derived from such levy may not be earmarked for any special health purpose but are available for appropriation by the county commissioners for all health expenditures.

Respectfully,

C. WILLIAM O’NEILL

Attorney General