

5413.

APPROVAL—PROPOSED AGREEMENT WITH N. AND W. RAILROAD CO. AND D. T. AND I. RAILROAD CO. AND CITY OF IRONTON FOR ELIMINATION OF GRADE CROSSING IN IRONTON, LAWRENCE COUNTY, OHIO.

COLUMBUS, OHIO, April 25, 1936.

HON. JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted for my consideration a proposed agreement by and between the Director of Highways, the Norfolk and Western Railway Company, the Detroit, Toledo and Ironton Railroad Company, and the City of Ironton, covering the elimination of the grade crossing over the tracks of said companies on Second Street (State Highway No. 7) in the City of Ironton, Lawrence County, Ohio.

After examination, it is my opinion that said proposed agreement is in proper legal form and when the same is properly executed it will constitute a valid and binding contract.

Said proposed contract is being returned herewith.

Respectfully,

JOHN W. BRICKER,
Attorney General.

• 5414.

BLIND RELIEF—COUNTY AUDITOR MAY ISSUE BLIND RELIEF CHECKS—EFFECT OF STATE OR FEDERAL GRANTS.

SYLLABUS:

A county auditor has the right to issue monthly blind relief checks in accordance with House Bill No. 611, enacted in the first special session of the 91st General Assembly, before county funds are supplemented by state and federal grants.

COLUMBUS, OHIO, April 25, 1936.

HON. DONALD J. HOSKINS, *Prosecuting Attorney, Columbus, Ohio.*

DEAR SIR: I am in receipt of your communication, which reads as follows:

“On April 13, 1936, House Bill No. 611 became effective which act amends the Ohio Blind Relief Law and conforms with the Federal Social Security Act.

This Act provides as follows:

'The board of county commissioners is hereby empowered to appropriate out of the general fund of the county sufficient funds when supplemented by state and federal grants under the provisions of this act, to provide a subsistence to needy blind persons, compatible with decency and health, and the attorney general is hereby directed to bring mandamus proceedings against any board of county commissioners which fails to make such appropriation.'

And further provides:

'That existing sections 2967, 2967-1 and 2968 and section 2966 of the General Code, be and the same are hereby repealed.'

To date neither state nor federal grants have been allowed. The question now arises, has the County Auditor the right to issue blind relief checks before the county funds are supplemented by state and federal grants? As the April checks will be due at the end of this month I respectfully request you instruct me as to the proper course under the existing law as quickly as possible."

I assume that an appropriation for blind relief purposes was made by your county. Section 5625-5, General Code, provides that the general levy in the case of counties shall include the amounts necessary "for the relief of needy blind" and Section 5625-29, General Code, provides for annual appropriation measures and supplemental appropriation measures found necessary during the year.

It should be noted that House Bill No. 611, enacted in the first special session of the 91st General Assembly, "To amend the Ohio blind relief laws, to conform to the federal social security act", which was effective as a law on April 9, did not repeal the sections referred to, supra. However, House Bill No. 611 did amend and formally repeal the old Section 2967 which provided, inter alia, for the payment of blind relief pensions, such pensions "to be paid quarterly" on warrant of the county auditor, and amended said section to provide that such funds should be paid "monthly".

House Bill No. 611 also amended Sections 2967-1 and 2968, General Code, in certain respects, and enacted supplemental sections to the blind relief laws, namely, Sections 2965-1, 2967-2, 2968-1, 2968-2 and 2968-3, General Code, and repealed Section 2966, General Code.

You call my attention to Section 2968-2, General Code, a part of the new blind relief law, which provides:

“The board of county commissioners is hereby empowered to appropriate out of the general fund of the county sufficient funds *when supplemented by state and federal grants* under the provisions of this act, to provide a subsistence to needy blind persons, compatible with decency and health, and the attorney general is hereby directed to bring mandamus proceedings against any board of county commissioners which fails to make such appropriation.”
(Italics ours.)

It should be noted that this section is merely supplemental to the appropriation sections already referred to above, which were not repealed by House Bill No. 611, and that it relates only to the “amount” to be appropriated, rather than the “time” of such appropriation. That is, the clause “when supplemented by state and federal grants” does not mean that the county commissioners are not empowered to make an appropriation for blind relief purposes until they receive state and federal grants, but, on the other hand, it means that the appropriation must be in such an amount that when state and federal grants are added thereto, that it will be sufficient “to provide a subsistence to needy blind persons compatible with decency and health.”

Consequently, an extended discussion does not appear necessary to me, as it seems clear that the appropriation already made by your county for blind relief purposes has not lapsed and that moreover, new supplemental appropriations may be made by virtue of Section 5625-29, General Code, if your county deems it necessary, prior to any actual receipt of state and federal grants.

In specific answer to your inquiry, it is my opinion that the county auditor has the right to issue monthly blind relief checks in accordance with House Bill No. 611, enacted in the first special session of the 91st General Assembly, before county funds are supplemented by state and federal grants,

Respectfully,

JOHN W. BRICKER,
Attorney General.