

1356.

HOSPITAL BILLS—FOR INDIGENT CRIPPLED CHILDREN COMMITTED TO WELFARE DEPARTMENT—PAYABLE FROM GENERAL COUNTY FUND—BUDGET COMMISSION MAY PROVIDE DEFINITE SUM TO PAY SUCH BILLS—ESTABLISHING “CRIPPLED CHILDREN APPROPRIATION FUND.”

SYLLABUS:

1. *Such hospital bills as are properly chargeable against a county for indigent crippled children committed to the state department of public welfare, are properly paid from the general county fund.*

2. *The county authorities may recommend to the county budget commission that a definite amount of money be included in the budget for the payment of hospital bills for the county's indigent crippled children. However, the action of the budget commission is not final and any funds set aside for such purposes must be appropriated by the county commissioners.*

3. *With the approval of the bureau of inspection and supervision of public offices, the county authorities may establish a fund designated as “crippled children appropriation” from which no other bills may be paid.*

COLUMBUS, OHIO, January 2, 1930.

HON. DON. W. MYERS, *Prosecuting Attorney, Elyria, Ohio.*

DEAR SIR:—In your recent communication you requested my opinion upon the following questions:

“(a) Are hospital bills for indigent crippled children who have been properly committed to the State Department of Welfare, paid from the ‘General County Fund’ as provided in Sections 1352-4, 1352-5 and 1352-8?”

(b) Can the County Budget Commission, in preparing the annual budget, on recommendation of proper county authorities or others, make provision for a definite amount of money to be used exclusively for the payment of hospital bills for the county's indigent crippled children who have been, or will be during the year for which the budget is prepared, properly committed?

(c) If it is legal for bills for hospitalization of indigent crippled children to be paid from the ‘General County Fund,’ cannot the Board of County Commissioners subdivide that fund and set aside a definite amount for the payment of crippled children bills, and label that fund ‘Crippled Children Appropriation,’ from which no other bills may be paid?”

Section 1352-4, General Code, provides in part as follows:

“The actual traveling expenses of any dependent, neglected, crippled or delinquent child and of the agents and visitors of said board shall be paid from funds appropriated to said board, but the amount of board, if any, paid for the care of such child and the expense for providing suitable clothing and personal necessities, mental, medical, surgical, dental and optical examination and treatment, including massaging and other beneficial treatment and braces, artificial limbs and accessories and their upkeep and for the education when necessary of a crippled child, shall be charged by the board of state charities to the county from which such child was committed or transferred as provided in Sections 1352-3, 1352-5 and 1352-8. * * *”

It is believed that even a cursory examination of the section, part of which is above quoted, discloses that hospital bills incurred by reason of the care of a crippled child committed to the department of public welfare, are proper charges to be paid by the county from which said child was committed. The terms, "board," "personal necessities" and "medical and surgical treatment," certainly are sufficiently broad as to include hospital care.

There are other related sections which clearly indicate that hospital treatment may be given such children when necessary and while the parents or guardians of such children are required to pay such expenses when they are able to do so, when they are not in position to pay such expenses, the same are properly chargeable against the county.

However, it is believed unnecessary to give further consideration to the general provisions of the sections authorizing the care of crippled children and providing for the payment of expenses for the reason that your inquiry is undoubtedly directed to such funds as the county is authorized to pay.

In connection with your inquiry as to whether the payment of such bills is properly made from the general county fund, it is noted that Section 5625-1 of the General Code, as amended by the 88th General Assembly, 113 O. L. 670, provides among other things:

"(a) 'Subdivision' shall mean any county, school district, except the county school district, municipal corporation or township in the state.

* * * *

(f) 'Current operating expenses' and 'current expenses' shall mean the lawful expenditures of a subdivision, except those for permanent improvements, and except payments for interest, sinking fund and retirement bonds, notes and certificates of indebtedness of the subdivision.

* * * *

(h) 'Bureau' shall mean the 'Bureau of Inspection and Supervision of Public Offices.'

* * * * "

Section 5625-5 of the General Code, as enacted by the 87th General Assembly, provides:

"The purpose and intent of the general levy for current expenses is to provide one general operating fund derived from taxation from which any expenditures for current expense of any kind may be made, and the taxing authority of a subdivision may include in such levy the amounts required for the carrying into effect of any of the general or special powers granted by law to such subdivision, including the acquisition or construction of permanent improvements and the payment of judgments, but except the construction, reconstruction, re-surfacing or repair of roads and bridges in counties and townships and the payment of debt charges. The power to include in the general levy for current expenses additional amounts for purposes for which a special tax is authorized shall not affect the right or obligation to levy such special tax. Without prejudice to the generality of the authority to levy a general tax for any current expense, such general levy shall include the amounts certified to be necessary for the payment of final judgments, the amounts necessary for general, special and primary elections; for boards and commissioners of health, and other special or district appropriating authorities deriving their revenue in whole or part from the subdivision; in the case of municipalities, for the maintenance, operation and repair of public buildings, wharves, bridges, parks and streets, for a firemen's pension fund,

police relief fund and sanitary fund; in the case of counties for the maintenance, operation and repair of public buildings, for the relief and support of the poor, for the relief of needy blind, for the relief of honorably discharged soldiers, indigent soldiers, sailors and marines, for mothers' pension fund and for the county's share of the compensation to be paid judges; in the case of a school district, for tuition, teachers' retirement fund and the maintenance, operation and repair of schools; and in a township, for the relief of the poor. Provided that nothing herein shall require the inclusion within the general levy of amounts for any purpose for which a special levy is authorized to be made under the provisions of this act."

Section 5625-9, as amended by the 88th General Assembly, 113 O. L. 672, which relates to the establishment of funds, provides:

"Each subdivision shall establish the following funds:

- (a) General fund.
- (b) Sinking fund whenever the subdivision has outstanding bonds other than serial bonds.
- (c) Bond retirement fund, for the retirement of serial bonds, or of notes or certificates of indebtedness.
- (d) A special fund for each special levy.
- (e) A special bond fund for each bond issue.
- (f) A special fund for each class of revenues derived from a source other than the general property tax, which the law requires to be used for a particular purpose.
- (g) A special fund for each public utility operated by a subdivision.
- (h) A trust fund for any amount received by a subdivision in trust for any lawful purpose."

Section 5625-10, relates to what revenues shall be paid into the general fund. Sections 5625-11 and 5625-12, as amended in this same act, provide:

"Sec. 5625-11. "In addition to the funds provided for by Sections 5625-9 and 5625-12 of the General Code, the taxing authority of a subdivision may establish, with the approval of the bureau, such other funds as may be necessary and desirable, and may provide by ordinance or resolution that moneys derived from specified sources other than the general property tax shall be paid directly into such funds."

Sec. 5625-12. "Without prejudice to the generality of the authority to create other special funds with the approval of the bureau, a municipality may establish in the manner provided by law, a firemen's pension fund, a firemen's indemnity fund, a police relief fund, a sanitary police pension fund, or a cemetery fund; and a township may establish by law a cemetery fund."

From the foregoing it seems clear that such charges as are properly made against the county for the hospital care of crippled children are properly payable from the general county fund. It also seems clear that under the provisions of Section 5625-11, with the approval of the Bureau of Inspection and Supervision of Public Offices, a county may establish additional funds provided for by Sections 5625-9 and 5625-12, as may be necessary and desirable and may provide a resolution that money derived from special sources other than the general property tax shall be paid directly into such funds.

In answer to your second inquiry it would appear further that the county budget commission in preparing the annual budget could properly take into consideration a request made by the county commissioners relative to providing for a definite amount

of money to be used for the payment of hospital bills for the county's care of crippled children. However, irrespective of the action of the budget commission, the amount used for such purposes would of necessity have to be appropriated under the provisions of Section 5625-29 of the General Code as amended by the 88th General Assembly in 113 O. L. 675.

In reference to your third inquiry, it is suggested that when a separate fund is once established with approval of the Bureau, no transfer may be made to any other fund unless such transfers come within the provisions of Section 5625-13 of the General Code as amended by the 88th General Assembly in 113 O. L. 673. After an examination of said section, it is believed that it would not authorize a transfer from said fund when once established for the purpose of paying the expenses for the care of crippled children.

In view of the foregoing and in specific reply to your inquiry, it is my opinion that:

1. Such hospital bills as are properly chargeable against a county for indigent crippled children committed to the state department of public welfare, are properly paid from the general county fund.

2. The county authorities may recommend to the county budget commission that a definite amount of money be included in the budget for the payment of hospital bills for the county's indigent crippled children. However, the action of the budget commission is not final and any funds set aside for such purposes must be appropriated by the county commissioners.

3. With the approval of the Bureau of Inspection and Supervision of Public Offices, the county authorities may establish a fund designated as "crippled children appropriation" from which no other bills may be paid.

The conclusions that I have reached herein are in substance the same as those which you reached in the opinion, the copy of which you were kind enough to enclose.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1357.

APPROVAL, BONDS OF HOAGLIN-JACKSON RURAL SCHOOL DISTRICT,
VAN WERT COUNTY—\$122,000.00.

COLUMBUS, OHIO, January 2, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

1358.

APPROVAL, ABSTRACT OF TITLE TO LAND OF CHARLES H. MAY IN
THE CITY OF PIQUA, MIAMI COUNTY, OHIO.

COLUMBUS, OHIO, January 2, 1930.

HON. A. W. REYNOLDS, *Adjutant General, Columbus, Ohio.*

DEAR SIR:—You have resubmitted for my examination an abstract of title and warranty deed pertaining to in-lots 5009 to 5015, inclusive, situated in Charles H. May's Addition to the city of Piqua, in Washington Township, Miami County, Ohio.