

payment of the services of the officer at the time the salary was increased.

In the case of *State ex rel. vs. Thomas, Auditor*, 35 O. App., 250, the question arose as to the duty of a board of county commissioners to appropriate money for the payment of the salary of a duly appointed criminal bailiff and court constable, whose salary had been fixed by the Court of Common Pleas by virtue of Sections 1541, 1692 and 1693, General Code. In the course of the court's opinion by Judge Hornbeck, it was said:

"When the common pleas court judge appoints a court constable and criminal bailiff and fixes the compensation, as he is expressly authorized to do under Sections 1541, 1692 and 1693, General Code, it has been fixed by a person or tribunal authorized so to do, and it is an act equivalent to and on parity with a fixing by law.

The county commissioners are bound to accept this act of a common pleas court judge, who is authorized to fix the compensation by law, in the same manner as if it had been fixed by statutory enactment."

In the case of *Jenkins, Auditor, vs. State ex rel.*, 40 O. App. 412, a writ of mandamus was issued, directing a board of county commissioners to appropriate for the use of a county agricultural society, the sum of money which the law directs such a society may receive from the county treasury. (Section 9894, General Code.) It was there said by the court:

"In preparing an appropriation measure under Section 5625-29, General Code, the taxing authority is bound to provide first for all those expenditures made imperative by statute."

See also 81. A. L. R., page 1253, note.

I am therefore of the opinion in specific answer to your question that it is the duty of a board of county commissioners to appropriate from county funds the full amount of compensation for the superintendent and matron of a children's home as fixed by the board of trustees of the home.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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2248.

APPROVAL, NOTES OF CLEARCREEK TOWNSHIP RURAL SCHOOL  
DISTRICT, FAIRFIELD COUNTY, OHIO—\$2,500.00

COLUMBUS, OHIO, February 1, 1934.

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