

age of the amended appropriation, the balance in the general fund of the county was not sufficient to bear the monthly charges against said fund, it was the duty of the county commissioners to reduce items of the appropriation measure not made imperative by statute, in order to balance the general fund.

I am therefore of the opinion, in specific answer to your question, that the county commissioners were not within their rights in reducing the appropriation made for the salary of the probate judge, if at the time the amended appropriation was made there were enough moneys in the general fund to meet the appropriations for expenditures made imperative by the statutes.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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951.

SCHOOL DISTRICT—PART THEREOF LYING IN ONE COUNTY—  
ADMINISTRATIVE JURISDICTION IN ANOTHER COUNTY—  
LEVY COLLECTED IN FIRST COUNTY PAYABLE TO COUNTY  
BOARD OF EDUCATION FUND WHERE ADMINISTRATIVE  
JURISDICTION LIES.

**SYLLABUS:**

*Where there are parts of school districts lying within a county, the jurisdiction of which districts for school administrative purposes is in another county school district, the proceeds of the 2.65 mills levy provided for by Section 7575, General Code, collected from those parts of districts should be paid by the treasurer of the county in which the parts of districts lie, into the county board of education fund of the county having jurisdiction of the district to be distributed according to law.*

COLUMBUS, OHIO, June 10, 1933.

HON. HOWARD C. BLACK, *Prosecuting Attorney. London, Ohio.*

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

“The Plain City School District is in the three counties of Madison, Union and Franklin.

As to the 2.65 levy, a question has been raised:

When that money raised in the Plain City School District in Union and Franklin counties is transmitted to Madison County (Madison county having largely the most territory in the district) does it all go to the Plain City district or does it go into the pot to be distributed pro rata over Madison county?”

It appears from your inquiry that the Plain City School District is a part of the Madison County School District; that is to say, the Madison County

Board of Education has jurisdiction of the district for school purposes, although portions of the district lie in Franklin and Union Counties. This follows from the fact that the largest part of the territory comprising the district lies in Madison County. (Section 4684, General Code.)

The 2.65 mills tax levy spoken of in your inquiry, is the levy provided for by Section 7575, General Code. This is a state levy, the proceeds of which are retained in the counties from whose territory the tax is collected for the support of the schools therein.

By the terms of Section 7600, General Code, the proceeds of this levy upon property in the territory of a county outside of city and exempted village school districts are to be placed in the county board of education fund, to be known as a "county educational equalization fund" and distributed to the several school districts of the county school district of which the territory of the county comprises the major part, in the manner provided for by Section 7600, General Code. Where, however, there are parts of school districts lying within a county, the jurisdiction of which districts for school administrative purposes, is in another county school district the proceeds of the levy collected from those parts of districts do not become a part of the county educational equalization fund of the county school district of the county in which the territory lies.

Under those circumstances, the proceeds of the levy collected from such territory are to be paid by the treasurer of the county into the county board of education fund of the county having the jurisdiction of the district. This procedure is provided for by Section 7600-1, of the General Code, as amended by the 89th General Assembly. Said section reads as follows:

"Where a village or rural school district is located in two or more counties, there shall be paid into the county board of education fund of the county board of education having jurisdiction of such district, by the treasurer of the said county in which any part of such district is located, the full amount of the levy of two and sixty-five hundredths mills provided in section 7575 of the General Code, that is collected in the part or parts of such district outside of the county having jurisdiction of the district."

By applying the provisions of the above section to the situation existing with reference to Plain City School District, it follows that the treasurers of Franklin and Union Counties should pay into the county board of education fund of the Madison County School District all the proceeds of the 2.65 mills levy collected from territory within the Plain City School District which lies in those counties. These moneys then became a part of the county educational equalization fund of the Madison County School District to be distributed by the Madison County Board of Education in the manner provided for by Section 7600, General Code, to all the school districts of the Madison County School District including the Plain City district.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*