

2160.

COUNTY COMMISSIONERS—APPROPRIATING EQUAL AMOUNTS TO COUNTY AND INDEPENDENT AGRICULTURAL SOCIETIES—LATTER SOCIETY MAY RECEIVE ITS APPROPRIATION NOTWITHSTANDING FORMER FAILS TO USE ITS APPROPRIATION.

**SYLLABUS:**

*Where a board of county commissioners has appropriated funds under Section 9894 of the General Code for both a county society and an independent society in equal amounts, and later the county society decides not to hold a fair and not to make a request for such funds, the independent society may receive the amount appropriated to it, notwithstanding the action of the county society.*

COLUMBUS, OHIO, July 25, 1930.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Acknowledgment is made of your letter requesting my opinion upon the following:

“A county in this state has a duly organized county agricultural society under the provisions of Section 9880 of the General Code and an independent agricultural society under the provisions of Section 9880-1, G. C. Section 9894, G. C., provides for certain aid to be given to agricultural societies by appropriation of the county commissioners and contains the provisions that the county commissioners may appropriate a sum for an independent agricultural society in addition to the sum appropriated for the county agricultural society not greater than the amount appropriated for the county society. This year the county society has determined not to hold a fair and will make no request for the amount appropriated for it by the county commissioners.

Question: May the county appropriate for an independent society to be paid to such society in view of the provisions of Section 9894, G. C., that the sum appropriated for the independent society shall not exceed that appropriated for the county society?”

Section 9894 of the General Code provides:

“When a county or duly organized county agricultural society owns or holds under a lease real estate used as a site whereon to hold fairs and the county agricultural society therein has the control and management of such lands and buildings, for the purpose of encouraging agricultural fairs, the county commissioners shall, on the request of the agricultural society, annually appropriate from the general fund not to exceed the sum of two thousand dollars or less than fifteen hundred dollars for such purposes, and in any county wherein is located one or more independent agricultural society or societies as provided for in Section 9880-1 herein, the county commissioners of said county, for the purpose of encouraging such independent agricultural society or societies, may appropriate, in addition to the sum appropriated for the county agricultural society, a sum not greater than the amount appropriated for the county society. The appropriation made for said agricultural society or societies shall be paid by the treasurer of the county to the treasurer of the county society or independent society or societies upon an order from the county auditor, duly issued therefor.”

In analyzing the foregoing section, it will be seen that there is a condition precedent attached to the appropriation for an independent society, viz., that a similar sum be appropriated to the county society. If no sum is appropriated to the county society, then no sum may be appropriated to the independent society. There is no express provision in said section that the independent society may not expend the sum appropriated to it in the event the county society fails to use its appropriation.

From the letter addressed to you from the Board of County Commissioners P\_\_\_\_\_ County, it appears that the commissioners did make an appropriation for the county society and the same amount to the independent society. However, after the appropriation was made the county society decided not to hold a fair and to make no request for the funds appropriated to it. In the correspondence between your bureau and the said board of county commissioners there is a suggestion that the term appropriation means payment, and therefore if no payment were actually made to the county society no payment could be made to the independent society. It is believed that the term appropriation as used in the state constitution and under the statutes which provide for the setting aside of funds by the officials of the state and subdivisions thereof for specific purposes, can in no wise be construed as payment. The fact that a sum has been made available by the appropriation authorities does not mean that it will be used for the purpose.

It will be observed that the fact that no fair is held by the county society would afford no logical reason why the independent fair should not be held.

In view of the foregoing, it is my opinion that where the county commissioners have appropriated funds under Section 9894 of the General Code for both a county society and an independent society in equal amounts, and later the county society decides not to hold a fair and not to make a request for such funds, the independent society may receive the amount appropriated to it, notwithstanding the action of the county society.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

---

2161.

DISAPPROVAL, BONDS OF SALEM VILLAGE SCHOOL DISTRICT, WASHINGTON COUNTY, OHIO—\$8,000.00.

COLUMBUS, OHIO, July 25, 1930.

Re: Bonds of Salem Village School Dist., Washington County, Ohio,  
\$8,000.00.

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

pursuant to resolution passed by the board of education of Salem Village School District, the question of issuing these bonds was submitted to the electors at the November, 1929, election and was favorably voted upon at that time. Pursuant to this authority, the board of education of Salem Village School District passed a resolution authorizing this issue which resolution was passed April 14, 1930. Upon this same date the bonds appear to have been offered to and rejected by the commissioners of the sinking fund of the Salem Village School District. The transcript further discloses that on April 11, 1930, the county board of education of the Wash-

GENTLEMEN :—The transcript relative to the above issue of bonds discloses that