

**OPINION NO. 83-053****Syllabus:**

1. R.C. 3319.19 requires a board of county commissioners to pay for the installation of telephone equipment in the offices which it provides for the county board of education. (1978 Op. Att'y Gen. No. 78-042, approved and followed.)
2. Pursuant to R.C. 307.01, the board of county commissioners shall provide for the installation of such telephone equipment as it considers reasonably necessary for the proper and convenient conduct of the auto title division of a clerk of courts when such division is moved to new offices. The county commissioners may pay for such installation directly from the general fund of the county, or may make an appropriation to the clerk's office for such purpose.

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**To: Robert B. Hines, Holmes County Prosecuting Attorney, Millersburg, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, October 11, 1983**

I have before me your request for an opinion concerning the payment of the costs of installation of telephone service for certain county offices. You have informed me that the Holmes County Commissioners have purchased and refurbished an office building and that several county offices, including the Auto Title Division of the Clerk of Courts and the Holmes County Board of Education, will be moving from their present locations to the new office building. The commissioners have informed all of the departments which are moving that they will have to pay for installation of the new telephone service from their own budgets. The county board of education and the clerk of courts have challenged this policy, asserting that the county commissioners must pay for the installation of their telephones. Your question, therefore, is whether the county board of education and the clerk of courts must pay for the installation of their telephones from their budgets or whether the county commissioners must pay for such installation from the general fund.

A question relating to the provision of telephone equipment and services for the county superintendent of schools was considered by my predecessor in 1978 Op. Att'y Gen. No. 78-042. As was noted in that opinion, R.C. 3317.11 provides for the payment of operating expenses of a county board of education from funds allocated to it under that section. R.C. 3317.11 states, in relevant part:

(A) Annually, on or before a date designated by the state board of education, each county board of education shall prepare a budget of operating expenses for the ensuing year for the county school district on forms prepared and furnished by the state board of education and shall certify the same to the state board of education, together with such other information as the board may require. Such budget shall consist of two parts. Part (A) shall include the cost of the salaries, employers retirement contributions, and travel expenses of supervisory teachers approved by the state board of education. . . . Part (B) shall include the cost of all other lawful expenditures of the county board of education. The state board of education shall review such budget and may approve, increase, or decrease such budget.

The county board of education shall be reimbursed by the state board of education from state funds for the cost of part (A) of the budget. The county board of education shall be reimbursed by the state board of education from state funds for the cost of part (B) of the approved budget which is in excess of six dollars and fifty cents times the total number of pupils under the board's supervision certified under section 3317.03 of the Revised Code, for all the local school districts within the limits of such county school district. The cost of part (B) not in excess of six dollars and fifty cents times the number of such pupils shall be apportioned by the state board of education among the local school districts in the county school district on the basis of the total number of such pupils in each such school district.

If part (B) of the budget is in excess of that approved by the state board of education, such excess cost shall be apportioned by the state board of education among the various school districts in the county school district on the basis of the total number of such pupils in each such school district, provided that a majority of the boards of education of such local school districts approve such apportionment. The state board of education shall initiate and supervise the procedure by which the local boards shall approve or disapprove such apportionment.

R.C. 3319.19 sets forth a limited exception to the provisions of R.C. 3317.11, as follows:

The board of county commissioners shall provide and equip offices in the county for the use of the county superintendent of schools, and shall provide heat, light, water, and janitorial services for such offices. Such offices shall be the permanent headquarters of the superintendent and shall be used by the county board of education when it is in session. Such offices shall be located in the county seat or upon the approval of the county board of education may be located outside of the county seat. (Emphasis added.)

See generally 1981 Op. Att'y Gen. No. 81-005.

Analyzing the language of R.C. 3319.19, my predecessor concluded, at 2-99 through 2-100:

Telephone equipment is by any standard essential office equipment. Consequently, R.C. 3319.19. . .requires the board of county commissioners to provide telephone equipment in the office of the superintendent. The provision of telephone equipment is, however, limited to the costs for the installation of the equipment and any necessary maintenance or replacement of the equipment.

Your question, on the other hand, refers to payment for telephone "service", which is a term of broader import and encompasses the cost of telephone usage. In my opinion R.C. 3319.19 does not impose a duty on the board of county commissioners to assume responsibility for the superintendent's telephone service

expense. Telephone service is a type of operating expense. As noted previously, a county board of education is responsible, pursuant to R.C. 3317.11, for its operating expenses in absence of an express statutory provision to the contrary. While the duty to equip offices fairly implies a duty to install telephone equipment, it does not necessarily imply a duty to assume responsibility for the ongoing expense of telephone service.

It is, therefore, my opinion and you are so advised that R.C. 3319.19 requires a board of county commissioners to provide telephone equipment in the offices of the county superintendent of schools. Telephone service, however, is an operating expense of the county board of education and must be included in its budget of operating expenses prepared pursuant to R.C. 3317.11.

It is my understanding that your question relates to the cost of installation of telephone equipment, rather than to periodic charges for telephone usage. Adopting the analysis set forth in Op. No. 78-042, I conclude that the board of county commissioners must, pursuant to R.C. 3319.19, pay for the installation of such equipment in the offices which it provides for the county board of education. The cost of periodic charges for telephone service are, however, operating expenses of the county board of education, to be included in the budget of the board prepared pursuant to R.C. 3317.11. See Op. No. 78-042.

The statutory provisions governing the provision of offices and payment of expenses for the auto title division of a clerk of courts are somewhat different from those governing the county board of education. The duties of a clerk of courts which pertain to certificate of motor vehicle title law are set forth in R.C. Chapter 4505. See, e.g., R.C. 4505.02, 4505.06. With respect to the costs of performing such duties, R.C. 2303.29 states:

(A) A clerk of the court of common pleas may, or upon the request of the board of county commissioners by the first day of June shall, submit a request for an appropriation to the board of county commissioners detailing the costs required to administer his responsibilities under Chapter 4505. of the Revised Code. If such a request is submitted, the request shall include an itemized schedule of personnel and supply costs. In addition, the request shall include a summary of the cost of administering Chapter 4505. of the Revised Code during the most recent appropriation period; a detailed estimate of new costs that will result from new responsibilities pursuant to Substitute House Bill 275 of the 114th general assembly or from any subsequent legislation changing fees or poundage established under Chapter 4505. of the Revised Code. If such a request is submitted, it shall be filed with the clerk of the board of county commissioners not later than the first day of November. The board of county commissioners shall consider the request of the clerk and the intent of the legislature prior to adopting the appropriation resolution pursuant to section 5705.28 of the Revised Code.

(B) The board of county commissioners shall budget and appropriate funds for the operation of the office of the clerk of the court of common pleas in an amount sufficient for the prompt discharge of the clerk's duties under Chapter 4505. of the Revised Code.

Clearly R.C. 2303.29(B) contemplates that the costs of the operation of the auto title division of a clerk of courts shall be paid from funds budgeted and appropriated pursuant to that provision and R.C. 5705.28.

With respect to the provision of offices for the clerk of courts, however, R.C. 307.01(A) states:

A courthouse, jail, public comfort station, offices for county officers, and a county home shall be provided by the board of county

commissioners when, in its judgment, any of them are needed. The buildings and offices shall be of such style, dimensions, and expense as the board determines. . . . The board shall also provide equipment, stationery, and postage, as it considers reasonably necessary for the proper and convenient conduct of county offices, and such facilities as will result in expeditious and economical administration of such offices. (Emphasis added.)

See R.C. 307.02 (authorizing different means of acquiring county offices). The clerk of the court of common pleas is elected on a county-wide basis, R.C. 2303.01, and paid from the general county fund, R.C. 325.01, 325.08. He is, thus, a county officer for whom offices must be provided under R.C. 307.01. See, e.g., R.C. 325.02 (using term "county officers"); R.C. 2303.06 ("[t]he board of county commissioners shall furnish the clerk of the court of common pleas. . . all things necessary for the prompt discharge of his duty"). See generally *State ex rel. Hottle v. Board of County Commissioners*, 52 Ohio St. 2d 117, 370 N.E.2d 462 (1977).

R.C. 2303.29(B) specifies that the board of county commissioners must budget and appropriate sufficient funds for the operation of the office of the clerk of courts to permit the prompt discharge of the duties imposed upon the clerk by R.C. Chapter 4505. As was concluded in Op. No. 78-042, however, the initial provision of telephone equipment does not appear to constitute an operating expense. Rather, the provision of telephone equipment for new offices appears to come within R.C. 307.01, which requires that the board "provide equipment. . . as it considers reasonably necessary for the proper and convenient conduct of county offices, and such facilities as will result in expeditious and economical administration of such offices." R.C. 307.01 does not, however, indicate whether the county commissioners must provide such equipment by direct expenditure from the general fund, or whether they may appropriate funds to the clerk of courts to cover the costs of such equipment.

Considering an analogous question—how the county commissioners may provide for payment for uniforms for deputies and employees of the county sheriff, supplied as equipment under R.C. 307.01—one of my predecessors stated:

I know of no provision of law which designates a special fund for such purchases, and they therefore can be made from the general fund as other current expenses are provided for. . . .

. . . If you are asking whether the commissioners can make an appropriation to the sheriff's office so that he can purchase uniforms rather than the commissioners doing it directly, the answer to that question is in the affirmative. . . .

In view of the above it is therefore my opinion that the county commissioners pursuant to the provisions of Section 307.01, Revised Code, may furnish uniforms for deputies and employes of the county sheriff, if, in the exercise of a sound discretion, the commissioners deem such uniforms necessary for the proper and convenient conduct of the sheriff's office. Such uniforms may be purchased directly by the county commissioners from the general fund of the county, or an appropriation may be made to the sheriff's office for the purchase of such uniforms.

1954 Op. Att'y Gen. No. 4684, p. 694 at 696-97.

The same analysis appears to be applicable in the instant case. Pursuant to R.C. 307.01, the board of county commissioners is authorized to provide equipment for the clerk of courts by payment from the general fund. Alternatively, should the commissioners choose, they may appropriate funds to the clerk for payment of

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<sup>1</sup> I assume, for purposes of this opinion, that the telephone equipment in question has been found by the county commissioners to be reasonably necessary for the proper and convenient conduct of the auto title division of the clerk of courts.

particular charges for equipment--in this case, the cost of acquiring telephone equipment in new offices. See generally R.C. 325.17 (discussing expenditure of moneys appropriated to the offices of various county officers, including the clerk of courts); R.C. 5705.28.

Whether moneys were appropriated to the office of the clerk of courts to cover the expenditures in question, or whether such costs must be borne by the general fund, is a question of fact which I am unable to determine on the basis of the information before me.<sup>2</sup> I conclude generally, however, that, unless funds have been appropriated to the clerk of courts to cover the costs of installation of telephone equipment in its new offices, the board of county commissioners has a duty under R.C. 307.01 to pay for such equipment from the general fund.

It is, therefore, my opinion, and you are hereby advised, that:

1. R.C. 3319.19 requires a board of county commissioners to pay for the installation of telephone equipment in the offices which it provides for the county board of education. (1978 Op. Att'y Gen. No. 78-042, approved and followed.)
2. Pursuant to R.C. 307.01, the board of county commissioners shall provide for the installation of such telephone equipment as it considers reasonably necessary for the proper and convenient conduct of the auto title division of a clerk of courts when such division is moved to new offices. The county commissioners may pay for such installation directly from the general fund of the county, or may make an appropriation to the clerk's office for such purpose.

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<sup>2</sup> I note that a related question, concerning expenses involved in moving the offices of a general health district, was considered by my predecessor in 1974 Op. Att'y Gen. No. 74-032. That opinion states, at 2-145:

If the general health district had foreseen the necessity for moving its offices out of the courthouse, and had included the moving expense in its appropriation request under R.C. 3709.28 as an item of current expense, there would be no question. See Opinion No. 3499, Opinions of the Attorney General for 1954. I assume that this did not happen and that the health district is, therefore, without funds specifically committed to meet an expense necessitated by the action of the board of county commissioners. Since, under R.C. 307.01, *supra*, the board of county commissioners are required to provide such facilities as will be conducive to the expeditious and economical administration of all county offices, I conclude that the board should pay the expense of moving the health district offices out of the county's general fund. If there is no money available in the general fund, the board of health of the general health district may, under R.C. 3709.28, create a new appropriation item to cover the moving expense, and, with the approval of the county budget commission, transfer funds from other items to meet that expense.