

In specific answer to your questions therefore, it is my opinion that:

1. The allowance of fees of the clerk of courts in proceedings where Ohio seeks to extradite a fugitive from justice is unaffected by the Uniform Criminal Extradition Act, Sections 109-1, et seq., General Code.

2. There is no authority for the Governor to charge a five dollar (\$5.00) fee for the issuance of a requisition for the extradition of a fugitive from justice inasmuch as said fee was authorized by Section 111, which section was repealed by the Uniform Criminal Extradition Act.

3. Section 109-24, General Code, authorizing the payment of certain expenses in extradition cases out of the state treasury in the first instance does not repeal by implication the provisions of Section 2491, General Code, relating to such expenses as may be paid out of the treasury of a county.

4. The Uniform Criminal Extradition Act, in view of Section 26 of the General Code, only governs extradition proceedings begun after the effective date of the statute.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

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1237.

COUNTY CHILDREN'S HOME — COMPENSATION FOR DESTRUCTION OF TUBERCULAR CATTLE—HOW PAID—TO REPLACE CATTLE, THERE MUST BE SPECIFIC APPROPRIATION.

*SYLLABUS:*

1. *Money received by the Superintendent of a county children's home as compensation for the destruction of tubercular cattle must be paid into the county treasury in conformity with Section 5625-10, General Code.*

2. *In order to replace a herd of cattle owned by a county children's home and destroyed pursuant to the authority of Section 1121-8, General*

*Code, an appropriation for this specific purpose must be duly made by the county commissioners.*

COLUMBUS, OHIO, September 25, 1937.

HON. ELLIS W. KERR, *Prosecuting Attorney, Troy, Ohio.*

DEAR SIR: I have your letter of recent date in which you have requested my opinion on the following question:

“As a result of the testing of the herd of cattle at the Knoop’s Children’s Home for Bangs Disease, 19 of the herd were condemned and have been disposed of from which \$1,000.00 was derived.

The question in our minds is as to whether or not this money must be deposited into the general fund of the county or can it be used for the purchase of cattle to take the place of those destroyed.”

The statutory guide for the disposal of the funds in question is found in Section 5625-10, General Code, which reads in part as follows:

“All revenue derived from the general levy for current expense within the ten mill limitation; from any general levy for current expense authorized by vote outside of the ten mill limitation; and from sources other than the general property tax, unless the law prescribes its use for a particular purpose, shall be paid into the general fund. \* \* \*” (Italics ours).

It seems perfectly clear that the revenue received as compensation for the destruction of tubercular cattle is derived from “sources other than the general property tax” and inasmuch as the statutes do not prescribe a particular use for this money, it must be paid into the general revenue fund of the county.

Regardless, however, of the fund to which this money is credited it is also perfectly clear that the superintendent or the trustees of the children’s home cannot make any expenditure of county funds for a new herd of cattle unless it is expended in conformity with the Budget Law.

Section 5625-33, General Code, provides:

“No subdivision or taxing unit shall:

\* \* \* \* \*

(b) Make any expenditure of money unless it has been appropriated as provided in this act.

(c) Make any expenditure of money except by a proper warrant drawn against an appropriate fund which shall show upon its face the appropriation in pursuance of which such expenditure is made and the fund against which the warrant is drawn.

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The appropriation for the purchase of a new herd of cattle for the Knoop's Children's Home must be made by the county commissioners pursuant to the authority of Section 5625-26, General Code, which provides in part:

"On or about the first day of each year, the taxing authority of each subdivision or other taxing unit shall pass an annual appropriation measure *and thereafter during the year may pass such supplemental measures as it finds necessary*, based on the revised tax budget and the official certificate of estimated resources or amendments thereof." (Italics ours).

In specific answer, therefore, to your question, I am of the opinion that money received by the Superintendent of a county children's home as compensation for the destruction of tubercular cattle must be paid into the county treasury in conformity with Section 5625-10, General Code.

Further answering your question, I am also of the opinion that in order to replace the destroyed herd, an appropriation for that purpose must be duly made by the county commissioners.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

1238

MUNICIPAL BOARD SINKING FUND TRUSTEES—MAY NOT EXPEND PUBLIC FUNDS FOR AUDITS AND EXAMINATIONS—ACCOUNTS—DUTY TO EXAMINE IS ON BUREAU.

**SYLLABUS:**

*A municipal board of sinking fund trustees has no authority to expend public funds for audits and examinations of their accounts and transactions by certified public accountants in the absence of charter*