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1. RELIEF, POOR—COUNTY WHEREIN COUNTY DEPARTMENT OF WELFARE ESTABLISHED, COUNTY COMMISSIONERS WITHOUT AUTHORITY TO DESIGNATE TOWNSHIP TRUSTEES TO ACT AS AGENTS, ADMINISTRATION OF RELIEF—SECTION 2511-1 G. C.
2. COUNTY DEPARTMENT OF WELFARE VESTED BY LAW WITH POWERS AND DUTIES TO ADMINISTER POOR RELIEF THERETOFORE IMPOSED UPON COUNTY COMMISSIONERS—DUTY TO DESIGNATE TOWNSHIP TRUSTEES AS AGENTS, SECTION 3391-1 G. C.
3. WHERE NO COUNTY WELFARE DEPARTMENT ESTABLISHED, STATUS, DUTY OF COUNTY COMMISSIONERS.
4. COMPENSATION OF TOWNSHIP TRUSTEES—SECTION 3294 G. C.

## SYLLABUS:

1. In a county wherein a county department of welfare has been established pursuant to the provisions of Section 2511-1, General Code, the county commissioners are without authority to designate township trustees to act as agents in the administration of poor relief.

2. A county department of welfare established pursuant to the provisions of Section 2511-1, General Code, is vested by law with the powers and duties respecting the administration of poor relief theretofore imposed upon the board of county commissioners, including the duty to designate township trustees as agents in the administration of poor relief in their respective townships upon request of such township trustees, as provided in Section 3391-1, General Code.

3. In a county where no county welfare department has been established pursuant to the provisions of Section 2511-1, General Code, the appointment of a county relief director under provisions of Section 3391-7, General Code, does not divest county commissioners of the duty to designate township trustees as agents in the administration of poor relief as provided in Section 3391-1, General Code.

4. When either the board of county commissioners in a county having no county welfare department, or a county welfare department established pursuant to the provisions of Section 2511-1, General Code, has designated township trustees as agents in the administration of poor relief under authority of Section 3391-1, General Code, such township trustees may not be compensated for their services from poor relief funds but may be compensated from township funds under authority of Section 3294, General Code but within the limitations therein set forth. Paragraph 1, Opinion No. 948, Opinions of the Attorney General for 1939, Vol. II, page 1334, approved and followed.

Columbus, Ohio, June 3, 1946

Hon. Frazier Reams, Director, Department of Public Welfare  
Columbus, Ohio

Dear Sir:

Your request for my opinion reads:

“Two questions have arisen in connection with the administration of Poor Relief concerning which we would appreciate the opinion of the Attorney General. They are:

1. In a county having a County Department of Welfare to what extent can the township trustees be used by the County Director of Welfare or the Board of County Commissioners in the administration of poor relief? May they be paid the per diem rate allowed Township Trustees under the law?

2. In a county having no County Department of Welfare may the County Relief Director or the Board of County Commissioners use township trustees in the administration of poor relief? Can they be paid the per diem rate allowed township trustees?

Presumably, in inquiring whether township trustees may be "used" in the administration of poor relief, you are concerned as to the power to designate township trustees as agents in the administration of poor relief.

Considering, then, your first question I note that the 95th General Assembly passed an act "To Provide for the Consolidation of County Welfare Activities" (120 O. L. 430). This act was codified as Sections 2511-1 to 2511-11, both inclusive, General Code.

Under the provisions of Section 2511-1, General Code, the county commissioners of any county have authority to establish a county welfare department consisting of a county director of welfare and such other assistants and employes as may be deemed necessary. That section reads in part as follows:

"The county commissioners of any county may by a resolution which has been unanimously adopted, establish a county department of welfare which, when so established, shall be governed by the provisions of this act. Such department shall function from and after the date fixed in such resolution, which date shall not be less than thirty nor more than ninety days after the adoption of such resolution, but not before the first day of January, 1944. The county department of welfare shall consist of a county director of welfare appointed by the board of county commissioners, and such assistants and other employees as may be deemed necessary for the efficient performance of the welfare service of the county."

The powers and duties of the director are stated in the first sentence of Section 2511-1, General Code, as follows:

"Under the direction of the board of county commissioners, the county director of welfare shall have full charge and control of the county department of welfare."

Section 2511-4 reads in part:

"The county department of welfare shall have the following powers and duties: \* \* \*

(c) To administer poor relief and burials in so far as the administration of such relief and burials was heretofore imposed upon the board of county commissioners."

It is therefore clear that while the board of county commissioners has authority to create a county department of welfare, yet the actual administration of "poor relief \* \* \* in so far as the administration of such relief \* \* \* was heretofore imposed upon the board of county commissioners," is, by the provisions of these statutes vested in the county department of welfare by the fact of creation of such department. Among the powers and duties vested in the board of county commissioners is the requirement that upon request of the township trustees of any township, the county commissioners shall by resolution designate such township trustees to act as its agents in the administration of poor relief in such township. That requirement appears in Section 3391-1, General Code, the pertinent part of which reads:

"Commencing on the first day of July, 1939, the territory in each county outside the corporate limits of cities therein shall be a local relief area hereinafter referred to as the 'county local relief area,' the local relief authority for which shall be the board of county commissioners of the county; and each city shall be a local relief area, the local relief authority for which shall be the proper board or officer of the city; provided, however, that any board of county commissioners, upon request of the township trustees of any township in the county, shall, by resolution adopted at any time after this act becomes effective, designate such township trustees to act as its agents in the administration of poor relief within such township to the extent provided in such resolution; \* \* \*."

Section 3391-1 is a part of an act known as the "Administration of Poor Relief Act" and was passed June 1, 1939 as an emergency measure and effective June 6, 1939. There has been no change in such statute since the enactment of Section 2511-1, supra, and the Legislature is presumed to know the existence of statutes in effect at the time of an enactment. Therefore, if the Legislature had desired to make any changes in the provisions of Section 3391-1 concerning the designation of township trustees in the administration of poor relief at the time of the enactment of Section 2511-1, et seq., it could have done so. Not seeing fit to make any changes in that section, nor to make any specific reference to the provisions thereof here under discussion in the enactment of Section 2511-1, et seq., it must be presumed that the Legislature intended to transfer to the county department of welfare, upon the establishment of such department, all those powers and duties theretofore imposed upon

county commissioners including the duty to designate township trustees as agents in the administration of poor relief.

The second part of your first question concerns the duty of a board of county commissioners to designate township trustees as agents in the administration of poor relief in those counties having a county department of welfare. It necessarily follows from what I have said heretofore in this opinion that if by the creation of a county department of welfare all powers and duties heretofore imposed upon county commissioners are, by fact of creation of such department, vested by law in the county department of welfare, then no further authority remains in such commissioners to make such designation. Therefore, I am of the opinion that in a county having a county department of welfare the county commissioners are without authority in law to designate township trustees to act as agents in the administration of poor relief.

The third part of your first question concerns the per diem compensation allowed township trustees under the law. At page 1338 of the Opinions of the Attorney General for 1939, Vol. II, page 1334 it is pointed out that the duties imposed upon township trustees under authority of Section 3391-1, General Code, are on such trustees in their official capacity as distinguished from their individual capacity and that therefore such township trustees may be paid for their services to the extent authorized by Section 3294, General Code. The first proposition of the syllabus reads :

"1. When the board of county commissioners have by resolution designated the board of township trustees as agent in the administration of poor relief under authority of Section 3391-1, General Code, the members of such board of township trustees may not be compensated for their services from poor relief funds but may be compensated for their services from township funds under authority of Section 3294, General Code, but within the limitations therein set forth."

Since the pronouncement of that opinion there have been no changes in either Section 3294 or Section 3391-1, et seq., General Code (Administration of Poor Relief Act), and the conclusions reached in that opinion are approved. The fact that the designation be made by the county department of welfare, rather than the board of county commissioners, would make no difference in the conclusion reached.

In your second question which concerns a county having no county department of welfare, you inquire whether the county relief director may designate township trustees in the administration of poor relief.

Section 3391-7, General Code, gives the board of county commissioners, as the local relief authority of a county local relief area, power to appoint a relief director. The first sentence reads:

“Each local relief authority may appoint a relief director, who shall be exempt from the provisions of sections 486-1 to 486-30, both inclusive of the General Code (classified civil service) and such additional employees as it may deem necessary, and prescribe their duties and authority.\* \* \* ”

(Parenthetical matter added.)

No other statute fixes the duties and authority of a county relief director and it follows from the language just above quoted, that a county relief director appointed by the county commissioners has only such duties and authority as are granted by resolution of the county commissioners. Since the power to appoint a county relief director was included in the same legislative enactment as that authorizing the appointment of township trustees, there is no basis for holding that any power to designate township trustees as agents in the administration of poor relief is transferred to a relief director. You are therefore advised that in my opinion a county relief director, in a county having no county welfare department, has no authority to designate township trustees as agents in the administration of poor relief. It naturally follows that the power to designate, not being transferred to a county relief director in such instances, remains in the board of county commissioners.

The part of your second question relating to the per diem compensation of trustees needs no further discussion, for, as pointed out, no changes have occurred in the provisions of pertinent statutes since the pronouncement of the opinion of the Attorney General cited above.

Therefore, in specific answer to your inquiries, you are advised that in my opinion:

1. In a county wherein a county department of welfare has been established pursuant to the provisions of Section 2511-1, General Code, the county commissioners are without authority to designate township trustees to act as agents in the administration of poor relief.

2. A county department of welfare established pursuant to the provisions of Section 2511-1, General Code, is vested by law with the powers and duties respecting the administration of poor relief theretofore imposed upon the board of county commissioners, including the duty to designate township trustees as agents in the administration of poor relief in their respective townships upon request of such township trustees, as provided in Section 3391-1, General Code.

3. In a county where no county welfare department has been established pursuant to the provisions of Section 2511-1, General Code, the appointment of a county relief director under provisions of Section 3391-7, General Code, does not divest county commissioners of the duty to designate township trustees as agents in the administration of poor relief, as provided in Section 3391-1, General Code.

4. When either the board of county commissioners in a county having no county welfare department, or a county welfare department established pursuant to the provisions of Section 2511-1, General Code, has designated township trustees as agents in the administration of poor relief under authority of Section 3391-1, General Code, such township trustees may not be compensated for their services from poor relief funds but may be compensated from township funds under authority of Section 3294, General Code, but within the limitations therein set forth. Paragraph 1, Opinion No. 948, Opinions of the Attorney General for 1939, Vol. II, page 1334, approved and followed.

Respectfully,

HUGH S. JENKINS  
Attorney General