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COUNTY COMMISSIONERS WHO HAVE ENTERED INTO A CONTRACT WITH MUNICIPAL LEGISLATIVE AUTHORITIES TO PROVIDE LOCAL POOR RELIEF MAY LEVY TAXES ON THE CITY FOR POOR RELIEF WITHOUT SUBMITTING THE LEVY TO THE ELECTORS IF IT IS WITHIN THE 10 MILL LIMIT—§§5113.02, 307.15 R.C.

SYLLABUS:

Where under Section 5113.02, Revised Code, a board of county commissioners and the legislative authority of a city enter into a contract prior to the first day of July in any year under which the county becomes the local relief authority for poor relief administration within the city, the county may levy taxes within the city for poor relief administration without submitting the levy to the electors so long as the levy is within the ten-mill limitation, anything to the contrary in Section 307.15, Revised Code, notwithstanding.

Columbus, Ohio, May 17, 1962

Hon. George C. Steinemann, Prosecuting Attorney
Erie County, Sandusky, Ohio

Dear Sir:

Your request for my opinion states that under Section 5113.02, Revised Code, the Erie County Board of County Commissioners and the City Council of the City of Huron, desire to enter into a contract under which the county would become the local relief authority for poor relief administration within the city, and would have power to levy taxes within the city

for poor relief. You state that Section 5113.02, Revised Code, appears to give the parties power to enter into such a contract without having to get approval from a majority of the city's electors; on the other hand, Section 307.15, Revised Code, which gives general authority for a county to enter into contracts with other units of government, requires consent from a majority of the electors of the other unit of government before the county can acquire power to levy taxes within that other unit of government.

You ask for my opinion as to which section governs the contract for poor relief.

Under Chapter 5113., Revised Code, the poor relief program is administered by local units of government called "local relief areas" rather than by the state. Under Section 5113.02, Revised Code, the local relief authority for territory outside the corporate limits of cities is the board of county commissioners, while for territory within the corporate limits of a city the local relief area is the city itself. This section also permits contracts between cities, or between a city or cities and the county, under which any one of the parties may become the local relief authority for the others. Specifically, a contract under which the county takes on the poor relief obligation of a city is permitted by a sentence in Section 5113.02, *supra*, reading:

" * * * The *legislative authority* of a city, on the one part, and the board of county commissioners of the county in which such city or any part thereof is located, on the other part, may under sections 307.14 to 307.19, inclusive, of the Revised Code, enter into an agreement whereby such board of county commissioners may act in behalf of such city as the local relief authority. * * *

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The second and third paragraphs of Section 5113.02, *supra*, describe how the money necessary to carry out such contracts should be raised; they read:

"An agreement whereby the board of county commissioners may act as the local relief authority for a city, if entered into prior to the first day of July in any year, may provide that, for the purpose of tax levies for poor relief and the appropriation and expenditure thereof for one or more next ensuing fiscal years, the city shall be a part of the county local relief area, anything to the contrary in section 307.15 of the Revised Code notwithstanding; in which event the city shall not, for the duration of such contract, levy taxes for poor relief.

"If the county local relief area is not coextensive with the county, it shall constitute a special taxing unit, within which the

board of county commissioners may levy a tax for poor relief on the taxable property, and for which purpose it may submit to the electors the question of a special levy, outside the ten mill limitation, in the manner provided by sections 5705.19 to 5705.26, inclusive, of the Revised Code."

Thus, (1) it is the *legislative authority* of the city which enters into the contract, (2) the city is then a part of the county local relief area, the local authority for which is the board of county commissioners, despite anything to the contrary in Section 307.15, Revised Code, and (3) the only provision for going to the electors is where, as a special taxing unit the board of county commissioners feels it is necessary to obtain funds from a special levy outside the ten-mill limitation. Under these considerations I conclude that, taking Section 5113.02, *supra*, alone, a board of county commissioners may levy taxes within a city for poor relief without approval from the electors, unless, of course, the levy is a special levy outside the ten-mill limitation.

It therefore becomes necessary to consider Section 307.15, Revised Code, reading in part:

"The board of county commissioners may enter into an agreement with the legislative authority of any municipal corporation, township, port authority, water or sewer district, school district, library district, health district, park district, soil conservation district, water conservancy district, or other taxing district, or with the board of any other county and such legislative authorities may enter into agreements with the board, whereby such board undertakes, and is authorized by the contracting subdivision, to exercise any power, perform any function, or render any service, in behalf of the contracting subdivision or its legislative authority, which such subdivision or legislative authority may exercise, perform, or render.

"* * * Nor shall the board, by virtue of any agreement entered into under this section acquire any power to levy taxes within and in behalf of a contracting subdivision unless approved by a majority of the electors of the contracting subdivision.

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Prior to 1957, the last part of the sentence last quoted read:

"* * * unless otherwise provided by law."

The question that arises is whether the change in language alters the effect of Section 5113.02, *supra*.

It is my opinion that it does not. This is primarily because the contract for poor relief is not entered into by virtue of Section 307.15, *supra*, but by virtue of Section 5113.02, *supra*. Secondly, Section 5113.02, *supra*, specifically rejects all terms contrary to it in Section 307.15, *supra*. Thirdly, Section 5113.02, *supra*, deals specifically with contracts between political subdivisions for the administration of poor relief, while Section 307.15, *supra*, covers only the general contract-making powers of a board of county commissioners; and it is axiomatic that as between a specific and a general statute, the specific governs (50 Ohio Jurisprudence 2d., "Statutes", Section 104, pages 83-86.)

Accordingly, it is my opinion and you are advised that where under Section 5113.02, Revised Code, a board of county commissioners and the legislative authority of a city enter into a contract prior to the first day of July in any year under which the county becomes the local relief authority for poor relief administration within the city, the county may levy taxes within the city for poor relief administration without submitting the levy to the electors so long as the levy is within the ten-mill limitation, anything to the contrary in Section 307.15, Revised Code, notwithstanding.

Respectfully,

MARK McELROY

Attorney General