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1. HEALTH DISTRICTS — ANNUAL BUDGETS — SECTIONS 1261-40, 5625-5, 5625-20 ET SEQ., G. C. ARE IN PARI MATERIA—SHOULD BE CONSTRUED TOGETHER IN MANNER TO GIVE EFFECT TO EACH.
2. TENTATIVE BUDGET — GENERAL HEALTH DISTRICT FORMED BY COMBINATION, CITY HEALTH DISTRICT AND ORIGINAL GENERAL HEALTH DISTRICT—COUNTY AUDITOR, SPECIFIC DUTIES IN DISTRIBUTION OF FUNDS—SECTION 1261-20 G. C.
3. LEGAL CUSTODIAN OF HEALTH DISTRICT FUNDS—COUNTY TREASURER—SECTION 1261-38 G. C.

SYLLABUS:

1. Sections 1261-40 and 5625-5, and Section 5625-20 et seq., General Code, relating to the annual budgets of health districts, are in pari materia, and should be construed together in such manner as to give effect to each.

2. The tentative budget of a general health district formed by combining a city health district and an original general health district under authority of Sections 1261-16 and 1261-20, General Code, showing the amount requested for operating expenses for the ensuing fiscal year, and the certificate of the mayor required by Section 1261-40, General Code, as to the amount to be paid by the municipalities and townships in the district, as provided in the contract between the city and the district advisory council, should be filed with the county auditor; and the amount allowed by the budget commission should be apportioned by the county auditor among the municipalities and townships composing the district in accordance with the mayor's certificate, for inclusion in their respective general levies for current operating expenses, and the county auditor, at each semiannual settlement, should retain one-half of the amount apportioned to each of the subdivisions, and pay the same to the custodian of the district health fund.

3. Under Section 1261-38, General Code, the county treasurer of a county which constitutes all or the major portion of a general health district formed by uniting a city health district with an original health district, is the legal custodian of the health district funds.

Columbus Ohio, September 24, 1946

Bureau of Inspection and Supervision of Public Offices
Columbus, Ohio

Gentlemen:

This will acknowledge receipt of your letter from which it appears

that a city health district and general health district have united in forming a single health district under authority of Sections 1261-16 and 1261-20, General Code, and that the contract entered into between the chairman of the advisory council of the general health district and the mayor under authority of Section 1261-20, provides that health affairs in the combined district shall be administered by the city health department, and the expenses paid one-third by the city and two-thirds by that part of the district lying outside of the city. I also understand that the combined district constitutes the major portion of the county in which it is located.

Under the facts above stated, you have requested my opinion as to the procedure to be followed by the board of health of the combined district in preparing its annual budget, and also as to whether the city treasurer or the county treasurer is to be the legal custodian of the health district funds.

Section 1261-16, General Code, provides that the state shall be divided into city health districts and general health districts for the purposes of local health administration, and also that there may be a union of a general health district and a city health district. The manner in which the two may be united in the formation of a single district, and thereby become a general health district, is specifically provided for in Section 1261-20, General Code, and I am assuming for the purpose of my opinion that the procedure prescribed by that section was followed in uniting the two districts involved in your inquiry. The section also provides that :

“The combined health district hereinbefore provided for shall constitute a general health district, and the board of health or health department of the city or the board of health of the original health district as may be agreed in the contract, shall have within the combined district all the powers hereinafter granted to, and perform all the duties herein or hereafter required of the board of health of a general district.”

Provision is made in Section 1261-40, General Code, with respect to the annual budget of a general health district. The section requires that the board of health shall annually, on or before the first Monday of April, estimate the amounts needed for the current expenses of the district for the ensuing fiscal year, and that the board's estimate shall be

certified to the county auditor for submission to the county budget commission. After the board's estimate, or tentative budget as it is commonly called, has been submitted to the budget commission, the section imposes certain duties on the commission and the county auditor with respect to the apportionment of the amount allowed by the commission, among the municipalities and townships composing the district. And in cases where a city health district and a general health district have been united, the mayor of the city also is required to certify to the county auditor the total amount due for the ensuing fiscal year from the municipalities and townships in the district, as provided in the contract between the mayor and the advisory council of the original general health district. The section, so far as pertinent to your case, reads as follows:

"The board of health of a general health district shall annually, on or before the first Monday of April, estimate in itemized form the amounts needed for the current expenses of such districts for the fiscal year beginning on the first day of January next ensuing. Such estimate shall be certified to the county auditor and by him submitted to the budget commissioners which may reduce any item or items in such estimate but may not increase any item or the aggregate of all items. The aggregate amount as fixed by the budget commissioners shall be apportioned by the county auditor among the townships and municipalities composing the health district on the basis of taxable valuations in such townships and municipalities. * * * The county auditor, when making his semi-annual apportionment of funds shall retain at each such semi-annual apportionment one-half the amount so apportioned to each township and municipality. Such monies shall be placed in a separate fund, to be known as the 'district health fund.' * * * Where any general health district has been united with a city health district located therein, the mayor of the city shall annually on or before the first day of June certify to the county auditor the total amount due for the ensuing fiscal year from the municipalities and townships in the district as provided in the contract between such city and the district advisory council of the original health district. The county auditor shall thereupon apportion the amount so certified to the townships and municipalities, and withhold the sums so apportioned as herein provided."

In determining the procedure to be adopted and followed by an original health district in securing current operating tax revenue from the municipal corporations and townships composing the district, and who are required by the budget law to raise it by taxation, it is my

opinion, and it was so held by one of my predecessors in an opinion reported in Opinions of the Attorney General for 1933, page 1389, that:

“Sections 1261-40, 5625-5 and 5625-20, General Code, are in *pari materia*, and must be construed together in such manner as to give effect to the provisions of each.”

The two sections last mentioned in the quotation are sections of the Uniform Tax Levy Law, commonly referred to as the budget law, and are of later enactment than Section 1261-40. They are quite lengthy, and since you are familiar with their provisions, I am not quoting them in this opinion. They may be briefly summarized as follows:

Section 5625-5 requires that the general levy for current operating expenses of each subdivision shall include the amounts necessary for boards of health, and Section 5625-20 provides that each district authority, which includes a board of health, entitled to participate in any revenue of a subdivision, shall file with the taxing authority thereof, or with the chief executive officer when the subdivision is a municipal corporation, an estimate of contemplated revenue and expenditures for the ensuing fiscal year, and that the taxing authority shall include in its budget the amounts requested by district authorities, etc. Thereafter, the budget is filed with the county auditor, who lays it before the budget commission for examination as required by Section 5625-23. After the budget commission has completed its work, Section 5625-25 provides that the commission shall certify its action to the respective taxing authorities who are to raise the necessary funds, together with the county auditor's estimate of the tax rate to be levied, whereupon each taxing authority is required to make the necessary levy and certify the same to the county auditor.

In holding that Sections 1261-40, 5625-5 and 5625-20, General Code, are in *pari materia*, and must be construed in such manner as to give effect to the provisions of each, the former Attorney General in his 1933 opinion, *supra*, said:

“The sections of the statute in question (§§1261-40, 5625-5 and 5625-20, G. C.), even though enacted at different times, all relate to the same thing or same subject matter, that is, the levy of taxes for a health district. They must, therefore, be construed together. * * *

It would appear to be a reasonable interpretation of such sections if Sections 1261-40, 5625-5 and 5625-20, General Code, were construed to require the board of health of a general health district to certify on or before the first Monday in April of each year, its estimated budget for the next ensuing year, to the county auditor, who submits such estimate to the budget commissioners. Upon approval of the budget by the budget commission the county auditor is then required to allocate such approved budget among the various taxing subdivisions comprising such general health district for inclusion in their tax budgets along with other items comprising the item for current expenses filed with the budget commission on or before July 15th; then the county auditor, when making his semi-annual apportionment of funds shall retain a sum equal to one-half the amount so apportioned to a particular subdivision from the funds collected for the purposes of the general operating fund of such subdivision. If such is a reasonable construction of the language of such sections, it will permit each of such sections to remain effective, and comply with the rules of interpretation of statutes as hereinbefore set forth."

The construction placed upon Sections 1261-40, 5625-5 and 5625-20 by the former Attorney General appears to me to be justified by the rule which requires all laws in *pari materia* to be construed together in such manner as to give effect to the provisions of each whenever it is possible to do so, and in my opinion is equally applicable to a health district formed by combining a city health district with an original general health district, since a district so formed is expressly declared by Section 1261-20 to be a general health district.

You are therefore advised that the board of health of the combined health district referred to in your letter should certify to the county auditor its annual tentative budget showing the amounts requested for operating expenses for the ensuing fiscal year, and also that the mayor of the city should certify to the auditor that one-third of the operating expenses of the district is to be paid by the city and two-thirds by the other subdivisions composing the district, as provided for in the contract between the city and the advisory council of the original health district; that the tentative budget should be submitted by the auditor to the county budget commission for its action thereon; that one-third of the total amount allowed by the commission should be apportioned by the auditor to the city, and the remaining two-thirds be apportioned by him among the other subdivisions comprising the district on the basis of taxable valu-

ations, for inclusion in their respective general levies; and that the county auditor, at each semi-annual tax settlement, should withhold from each subdivision one-half of the amount apportioned to it for the health district, and pay the same to the custodian of the health fund of the district.

With respect to your question as to whether the city treasurer or county treasurer is the legal custodian of the health fund of the combined district referred to in your letter, your attention is directed to Section 1261-38, General Code, which reads in part as follows:

“The county treasurer of a county which constitutes all of the major portion of a general health district shall be the custodian of the health fund of that health district.”

As I have already stated, Section 1261-20 expressly declares that the combined district shall constitute a general health district, and that being the case, the county treasurer of the county in which the combined district referred to in your letter is located, becomes the legal custodian of the district health funds.

Respectfully,

HUGH S. JENKINS
Attorney General