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1. HOSPITAL, COUNTY — FUNDS — AMENDMENT, HB 355, 100 GA, SECTION 339.06 RC, 3137 GC—DOES NOT AFFECT PROCEDURE FOR PREPARATION OF BUDGET—SECTION 5705.28 ET SEQ., RC, 5625-20 GC.
2. COUNTY COMMISSIONERS—NO DUTY TO APPROPRIATE FUNDS TO SUPPORT COUNTY HOSPITAL—MAY PROVIDE FOR PROPER MAINTENANCE AND OPERATION—APPROPRIATION FROM GENERAL FUND, SUFFICIENT AMOUNT TO SUPPLEMENT OTHER INCOME OF HOSPITAL.
3. STATUTORY AUTHORITY—TRUSTEES, COUNTY HOSPITAL, ENTITLED TO IMMEDIATE PAYMENT OF FUNDS REMAINING IN COUNTY TREASURY—APPROPRIATION —OPERATION OF HOSPITAL, 1953.

SYLLABUS:

1. The amendment by House Bill No. 355, effective October 13, 1953, of Section 339.06, Revised Code, 3137, G.C., relating to the funds of county hospitals, does not in any way affect the procedure for the preparation of the budget required by Section 5705.28 et seq., Revised Code, 5625-20, G. C.

2. The county commissioners have no duty as to appropriation of funds to the support of a county hospital, except to appropriate from the general fund a sufficient amount of supplement the other income of the hospital, so as to provide for its proper maintenance and operation.

3. Under the terms of Section 339.06, Revised Code, 3137, G. C., as amended by the 100th General Assembly in House Bill No. 355, the trustees of a county hospital are entitled to the immediate payment of any balance remaining in the county treasury, of the appropriation made by the county commissioners for the operation of such hospital for the year 1953.

Columbus, Ohio, November 9, 1953

Hon. John S. Bath, Prosecuting Attorney
Fayette County, Washington C. H., Ohio

Dear Sir:

I have before me your communication, requesting my opinion and reading as follows:

"I have received a letter dated October 14th from the County Commissioners, requesting me to write to you for your opinion on the questions presented therein. Their letter is as follows:

'Will you please secure an opinion for us from the Attorney General in regard to House Bill #355, which becomes operative October 13, 1953.

'First, will the Trustees Hospital Budget be submitted and handled as all other subdivisions of the county?

'Second, can the Commissioners appropriate money to the Board of Hospital Trustees, when that money does not come into the hands of the Commissioners, the Auditor, or the Treasurer of the county?

'Third, how can the existing years operation be terminated, when appropriations are made for the full year of 1953? Shall the proportional amount of the appropriation be granted to the hospital, or the actual months of operation from January 1 to October 14; or shall the full appropriation be deemed an obligation of the county to the hospital?'"

House Bill No. 355, to which you refer, amended Section 339.06, Revised Code, Section 3137, G.C. This section, both before and after its amendment, provided that the board of county hospital trustees which had been appointed pursuant to Section 339.02, Revised Code, to erect a county hospital, should "have the entire management and control of the hospital" after its construction. The board is authorized to employ an administrator and other necessary employees, and to fix the compensation to be paid by patients for services and treatment. The section, prior to its amendment, contained the following language:

"The board has control of the property of the hospital, and shall deposit all money with the county treasurer to the credit of the hospital operating fund, and money shall be paid out only for the maintenance and operation of such hospital on the warrant of the county auditor issued pursuant to the orders of the board."

In the amendment the sentence quoted was stricken out, and there was substituted for it the following:

"The board of county hospital trustees has control of the property of the hospital, and all funds used in its operation. The board of county hospital trustees shall deposit all moneys received from the operation of the hospital or appropriated for its operation by the board of county commissioners, or resulting from

special levies submitted by the board of county commissioners as provided for in section 5705.22 of the Revised Code, to its credit in banks or trust companies designated by it, which fund shall be known as the hospital operating fund. Such banks or trust companies shall give the board of county hospital trustees a bond in an amount equal to the funds so deposited. The board of trustees shall not expend such funds until its budget for that calendar year is submitted to and approved by the board of county commissioners. Thereafter such funds may be disbursed by the board of county hospital trustees for the uses and purposes of such hospital, on a voucher signed by the administrator, provided for in this section, regularly approved by the board of county hospital trustees and signed by two members of the board of county hospital trustees. All moneys appropriated by the board of county commissioners or from special levies by the board of county commissioners for the operation of the hospital, when collected shall be paid to the board of county hospital trustees on a warrant of the county auditor and approved by the board of county commissioners."

In other respects, the section was not substantially changed. This amendment became effective on October 13, 1953.

This amendment was under consideration in Opinion No. 3151, which was released on the 22d day of October, 1953. In the course of that opinion it was said:

"The purpose of this amendment is to take the control of funds of the hospital from the county treasurer, and place it with the board of trustees of the county hospital."

In my opinion, the change above noted was the only change that was intended or accomplished by the amendment. It will be observed that in its original form all moneys belonging to the hospital board were to be deposited with the county treasurer to the credit of the hospital operating fund, and were to be paid out only upon the warrant of the county auditor, pursuant to the order of the board.

In the opinion to which I have referred, it was held that all funds belonging to the hospital, are now to be deposited in accordance with the provisions of the Uniform Depository Law, Section 135.01 et seq., R. C.

1. Treating your questions in their order, I note the first inquiry which is, whether the trustees' hospital budget is to be submitted and handled as is required of all other subdivisions of the county.

Section 5705.28, Revised Code, Section 5625-20, G.C., requires the taxing authority of each subdivision or other taxing unit, on or before the 15th day of July, in each year, to adopt a tax budget for the next succeeding fiscal year. This section then contains the following provision:

“* * * To assist in its preparation, the head of each department, board, commission, and district authority entitled to participate in any appropriation or revenue of a subdivision shall file with the taxing authority, or in the case of a municipal corporation, with its chief executive officer, before the first day of June in each year, an estimate of contemplated revenue and expenditures for the ensuing fiscal year, in such form as is prescribed by the taxing authority of the subdivision or by the bureau of supervision and inspection of public offices. * * *”

I do not consider it necessary to elaborate the succeeding steps leading up to the final determination of the allowances to the several subdivisions and their various agencies by the county budget commission. The amendment to which you have called attention, does not in any way change or abridge those proceedings. Accordingly, it is clear that the budget procedure provided for “each department, board, commission and district authority,” in reference to the budget, must be followed by the hospital trustees.

2. Your second question is, as to the scope of the power and duty of the county commissioners in appropriating money to the board of hospital trustees. In my opinion the county commissioners have no power or duty in the making of appropriations for a county hospital excepting as to the amount that they find it necessary to appropriate from the general fund to supplement the other revenues of the hospital board so as to enable it to meet the cost of maintaining and improving it for the ensuing year. The last paragraph of Section 339.06, Revised Code both before and after its amendment, reads as follows:

“The board of county hospital trustees shall annually on the first day of March, file with the board of county commissioners a statement of its receipts and expenditures for the preceding year and shall submit to such board of county commissioners an estimate of the financial requirements of such hospital for the ensuing year.”

This provision is very similar to the provision of Section 339.10, Revised Code, which reads as follows:

“On the first Monday in April, each year, the board of county hospital trustees shall file with the board of county commissioners a report of its proceedings with reference to the hospital, and a statement of the receipts and expenditures of the board of county hospital trustees during the year. At such time the board of county hospital trustees shall certify the amount necessary to maintain and improve the hospital for the ensuing year.”

As to the proceeds of a special tax levied under the provisions of Section 5705.22, Revised Code, Section 5625-15c, G.C., referred to in the amendment in question, it appears that that section, which is a part of the Uniform Tax Law, authorizes the county commissioners, “after providing *the normal and customary percentages of the total general fund appropriated* for the support of county hospitals,” to submit to the electors a proposal for an extra tax levy for that purpose, not to exceed sixty-five hundredths of a mill.

While all taxes levied for the support of the hospital would be collected by the treasurer and the money would therefore come into his hand, such proceeds would not be subject to any disposition by the county commissioners, but under the provision of Section 5705.10, Revised Code, Section 5625-10, G.C., are to be “credited to a special fund for the purpose for which the levy was made.” Accordingly, in the light of the amendment to Section 339.06 *supra*, all of these funds coming into the hands of the treasurer would belong immediately to the hospital trustees, and they would have the right to have them paid over into their custody. This would not require any action by the county commissioners by way of appropriation, but would be done as provided in Section 321.15, Revised Code, Section 2674, G.C., upon the warrant of the county auditor.

Accordingly, the answer to your second question is that the county commissioners have no duty in making appropriations to the board of hospital trustees, except such appropriations from the general fund as may be required to supplement the other revenues of the hospital board as revealed by their annual report to the county commissioners.

3. I understand your third question to deal with the payment to the trustees of the proportional amount of the annual appropriation that may have been made by the county commissioners to the hospital trustees for the year 1953. I may assume that up to October 13, 1953, the effective date of House Bill No. 355, the hospital trustees have drawn

on the funds theretofore appropriated, and in the custody of the county treasurer to their credit, in the payment of operating expenses, and there remains an unexpended balance of such appropriation.

In view of the plain provisions of Section 339.06 supra, that the trustees are to have control of all funds used for the operation of the hospital, and are required to deposit them in a depository, and are authorized to disburse them upon vouchers signed by the administrator and approved by the trustees, I am of the opinion that all funds remaining in the custody of the county treasurer when this amendment took effect, including any balances of appropriations made for the current year, should be paid over to the hospital trustees forthwith. I do not consider that it was the intention of the legislature that they should continue, even for the balance of the current year, to maintain two depositories of the funds which they have a right to have in their custody, and to disburse in the operation of the hospital. For the purposes of the transfer of the funds to the custody of the trustees, no action by the commissioners is required, and such funds should be paid over on the warrant of the county auditor.

In specific answer to the questions submitted, it is my opinion:

1. The amendment by House Bill No. 355, effective October 13, 1953, of Section 339.06, Revised Code, Section 3137, G. C., relating to the funds of county hospitals, does not in any way affect the procedure for the preparation of the budget required by Section 5705.28 et seq., Revised Code, Section 5625-20, G.C.

2. The county commissioners have no duty as to appropriations of funds to the support of a county hospital, except to appropriate from the general fund a sufficient amount to supplement the other income of the hospital, so as to provide for its proper maintenance and operation.

3. Under the terms of Section 339.06, Revised Code, Section 3137, G.C., as amended by the 100th General Assembly in House Bill No. 355, the trustees of a county hospital are entitled to the immediate payment of any balance remaining in the county treasury, of the appropriation made by the county commissioners for the operation of such hospital for the year 1953.

Respectfully,

C. WILLIAM O'NEILL

Attorney General