

OPINION NO. 70-003

Syllabus:

A board of county commissioners is not authorized and may not enter into a contract with a State university for the rendering of technical services in analyzing, appraising, and making recommendations concerning the operation of the various

county offices to project future needs and pay for the same from the general fund of the county.

To: Ronald J. Kane, Portage County Pros. Atty., Ravenna, Ohio
By: Paul W. Brown, Attorney General, January 19, 1970

Your request for my opinion reads, in part, as follows:

"Can a board of County Commissioners enter into a contract with a State University, specifically Kent State University, for the rendering of technical services in analyzing, appraising and recommending concerning the operation of the various County offices with projections of future needs and pay for such services from the General fund of the County?"

Boards of county commissioners, being creatures of statutes, have such powers, and such only, as are conferred by statute or as are necessarily implied from those expressly given, and a board of county commissioners can act for and bind the county only within the limits of such authority. The Court said in State v. Manning, 95 Ohio St. 97 (1916), at page 99:

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"The legal principle is settled in this state that county commissioners, in their financial transactions are invested only with limited powers, and that they represent the county only in such transactions as they may be expressly authorized so to do by statute. The authority to act in financial transactions must be clear and distinctly granted, and, if such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed upon the county.

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To further emphasize this limitation of powers, in the Board of County Commissioners v. Gates, 83 Ohio St. 19 (1919), at page 30, Judge Spear said:

"* * * Now a county is not a body corporate but rather a subordinate political division, an instrumentality of government, clothed with such powers and such only as are given by statute, and liable to such extent and such only as the statutes prescribe. * * *"

Opinion No. 2887, Opinions of the Attorney General for 1931, considered an almost identical proposed situation. Since that time no significant grants of power have been enacted in relation to this question. The Attorney General, in that Opinion, concluded that:

"* * * It is my opinion that county commissioners, under existing law relating to county government, are not authorized to contract for the em-

ployment of a bureau of governmental research to make a survey and study of county offices and institutions, which survey consists of recommending new systems of accounting, advising as to a new system of budget procedure, reporting on personnel, office lay-out, contract procedure, budgeting, etc. * * *."

Later in the same year, in the case of Gorman, Prosecuting Attorney v. Heuck, Aud., 41 Ohio App. 453, the Court held that although the county officials lacked technical knowledge necessary to efficiently run their offices, they could not secure outside, expert advice and pay for the same out of public funds.

The syllabus of an opinion by my predecessor, Opinion No. 76, Opinions of the Attorney General for 1968, reads as follows:

"A county does not become obligated for the expenditure of county funds except as a result of a contract made in conformity with the statutory requirements of Chapters 305 and 307 of the Revised Code, together with the certificate of the county auditor required by Section 5705.41 of the Revised Code."

In view of the foregoing, it is my opinion and you are advised that a board of county commissioners is not authorized and may not enter into a contract with a State university for the rendering of technical services in analyzing, appraising and making recommendations concerning the operation of the various county offices to project future needs and pay for the same from the general fund of the county.