bution "should be chargeable" in the first place, does not constitute a transfer of funds in the sense that transfers are spoken of in Sections 5625-13 and 6309-2 of the General Code, even though the word "transferring" is used in Section 1465-63, General Code, as descriptive of the process of reimbursing the fund from which the contribution is originally made.

It is nothing more nor less than a refund from the fund to which the contribution should be chargeable to the fund from which the legislature found it to be most practicable to make the contribution in the first instance.

It frequently happens in the ordinary administration of government that payments of current bills and the like are inadvertently made by administrative officers from the wrong fund. Upon discovery of such inadvertent payment by the Bureau of Inspection and Supervision of Public Offices, the Bureau with full authority orders a refunder in favor of the fund from which the payment was wrongfully made as against the fund from which it should have been made. In a sense the making of a refund involves a transfer of funds. It could not be made otherwise. I have never heard, however, of any one so bold as to contend that such a refunder was prohibited by the provisions of law respecting transfer of funds.

The process here under consideration consists simply of reimbursing the fund for what is taken from it for the use and benefit of another fund against which the legislature says the expenditure should be chargeable. I am not impressed with the contention that the provisions of the statute here under consideration are no longer workable because of the provisions of the budget law prohibiting the transfer of funds such as this statute authorizes, if in fact the reimbursement spoken of constitutes a transfer such as is spoken of in the budget law and in Section 6309-2 of the General Code.

Since the legislature, by the terms of the amendment of Section 1465-63, General Code, noted above, recognizing that other funds than the general fund of a political subdivision "should be chargeable" with their proper proportionate share of the contribution made by the subdivision to the State Insurance Fund and has thereby provided for the reimbursement of the general fund which bears this expenditure in the first instance from the funds properly chargeable with their respective portions of the contribution, I am of the opinion, in specific answer to your question, that the general fund of a municipality may lawfully be reimbursed out of the municipality's portion of the motor vehicle license tax and the motor vehicle fuel tax receipts for that portion of the contribution to the State Insurance Fund paid by the county auditor for the said municipality, which is directly attributable to the service of employes, workmen and operatives whose compensation is paid from moneys distributed to the municipality by authority of Sections 5537, 5541-8 and 6309-2 of the General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2852.

INDIGENT SICK—HOSPITAL SERVICE—COUNTY COMMISSIONERS MAY CONTRACT THEREFOR—SUCH SERVICE NOT LIMITED TO INMATES OF COUNTY INFIRMARY.

SYLLABUS:

County commissioners, by reason of the express authority under Section 3138-1 *of the General Code, may contract for hospital service for the care of the indigent poor of the*

county and in making such provision are not limited to those who are inmates of the county infirmaries, but such relief may be granted also, in the discretion of the commissioners, to those having legal settlements in townships or municipalities who are not permanent county charges.

COLUMBUS, OHIO, January 22, 1931.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—In your recent communication you request my opinion upon the statement of facts set forth in a communication to your bureau by one of your examiners, which you enclose. Said letter reads:

> "Under Section 3476 G. C. liabilities for indigent poor being clearly defined, and the respective duties of counties, townships and cities; and in view of Section 3480 G. C. as to medical care, and the recent supplemental Sections 3480-1 and 3480-2 G. C. as enacted 113 Ohio Laws 271 and 272, and the further provisions of Chapter 3 Townships Sections 3411 to 3414 inclusive, and the provisions of Sections 4021 to 4052 inclusive, and the provisions of Sections 3138-1 G. C. each of the above seeming to take care of hospital service for counties, townships and municipalities, have county commissioners under said Section 3138-1 the authority to contract for hospital service under said section for the care of township and city patients, or is said section to be read in connection with Section 3476, and limited only to county charges? Or in other words is it the law that each shall care for its own indigent poor, and that the right to each to contract be held to be for their own charges?
>
> 3411–1 provides that townships may contract with hospitals, and Section 4022 provides that municipalities may contract with hospitals, and it would seem that Section 3138–1 provides that counties may also contract, and if it be the law that each may contract, and the county may also pay for township or municipal patients, the townships or municipality may under the above authority duplicate this same service, and if so, which party will be considered as making the illegal payment, as both are authorized by law to make such agreement; that is if counties may contract with a hospital, for other than purely county charges."

The question presented is in substance whether or not the county commissioners, under the authority of Section 3138–1 of the General Code, may contract for hospital service for the indigent sick and disabled of the county, including persons who are residents of townships and cities, in view of the other sections mentioned in the letter.

Sections 3138–1, and 3138–2 of the General Code were under consideration by the attorney general in an opinion found in Opinions of the Attorney General for the year 1927, Page 386. The first branch of the syllabus of said opinion reads:

> "The fund derived from a tax levy under the provisions of Sections 3138–1 and 3138–2, General Code, may be legally applied to the care of the indigent sick and disabled of the county at large entitled thereto under the law, and the application of said fund is not limited to the care of those who are county or township charges."

The same conclusion was reached in an opinion set forth at page 30 of the Opinions of the Attorney General for the same year. In view of the conclusions reached by the then attorney general, it is believed unnecessary to quote the lengthy provisions of the sections herein. However, it should be stated that in the former opinion above

mentioned, Section 3490, General Code, relating to medical relief of poor in townships or corporations, Sections 3411 to 3414, inclusive, and Sections 4021 to 4033, inclusive, of the General Code, were taken into consideration.

Therefore it would appear that the situation is no different today from that which existed at the time of the rendition of the opinion above mentioned, excepting that supplemental Sections 3480-1 and 3484-2 were enacted by the 88th General Assembly. Section 3480-1 provides a manner of furnishing medical services or hospital care in cases other than contagion, to a person having a legal settlement in a municipality or township, other than that in which the service is rendered, and provides the method of charging back payment for such service to the municipality or township in which the person has a legal settlement. Section 3484-2 prescribes a method of furnishing medical services or hospital care to a person having a legal settlement in a county other than the one in which the services are rendered, and provides for charging expense for such services back to the county in which the person has a legal settlement.

It may further be stated that the supplemental sections last above mentioned, are in harmony with the provisions of Section 3476, which declares it to be the intent of the section that temporary or outside relief shall be furnished by cities to persons residents therein who are in need and by townships to those persons needing temporary relief outside of the municipality. There are other provisions of Section 3476 which must be noted. That is, the section provides that relief to be granted by the county shall be given to those persons who do not have the necessary residence requirements, and to those permanently disabled or who have become paupers and to such other persons whose peculiar condition is such that they can not be satisfactorily cared for except at the county infirmary or *under county control.*

While some argument could be made to the effect that the enactment of Sections 3480-1 and 3484-2 were intended to supplant the provisions of Section 3138-1, in so far as it may include medical and hospital service furnished to those having legal settlements in a township or a city, it is believed that said sections do not change the situation as a matter of law from that which existed at the time of the rendition of the opinions of my predecessor,hereinbefore referred to. In other words, Section 3480 already provided for medical relief. The section required complaint to be made by a person having knowledge of the facts to the township trustees or proper municipal officer. The supplemental sections simply provide the method of payment when a subdivision furnishes such relief to persons who do not have a legal residence in the subdivision furnishing the relief.

While Sections 3480-1, 3484-2 and their related sections provide a method of furnishing medical relief and hospital attention, it is believed that these sections in no wise prevent the county comissioners from exercising the special power granted under the provisions of Section 3138-1. To reach such a conclusion would be to hold that the supplemental sections hereinbefore mentioned, repealed said section by implication. The court looks with disfavor upon such constructions. In other words, a section will not be held to have been repealed by implication by another section so long as the two sections may be harmonized and given effect. It therefore must be concluded that the two remedies provided are cumulative in character. In my opinion the conclusion of the former attorney general was correct and I adhere to said rule.

In view of the foregoing, and in specific answer to your inquiry, it is my opinion that county commissioners, by reason of the express authority under Section 3138-1, of the General Code, may contract for hospital service for the care of the indigent poor of the county and in making such provision are not limited to those who are inmates of the county infirmaries, but such relief may be granted also, in the discretion of the commissioners, to those having legal settlements in townships or municipalities

who are not permanent county charges. It follows, of course, that under the circumstances considered, no findings would be justified against either subdivision.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2853.

APPROVAL, LEASE TO STATE RESERVOIR LAND AT PORTAGE LAKES, FOR LAWN, WALKWAY AND DOCKLANDING PURPOSES—V. E. McCORMISH.

COLUMBUS, OHIO, January 22, 1931.

HON. I. S. GUTHERY, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my examination and approval a certain lease in triplicate executed by the State of Ohio, through the Conservation Commissioner, by which there is leased and demised for a term of fifteen years to V. E. McCormish of Akron, Ohio, a certain parcel of state reservoir land at Portage Lakes, for lawn, walkway and docklanding purposes, which parcel of land is more particularly described in said lease, which lease designated with respect to the name of said respective lessee and the appraised valuation of the parcel of land therein leased as follows:

NAME	VALUATION
V. E. McCormish	$300.00

The lease herein in question, calling for an annual rental of six percent upon the appraised valuation of the parcel of land leased, was executed by the Conservation Commissioner under authority of Section 471 of the General Code.

An examination of said lease shows that the terms and conditions thereof are in conformity with the provisions of said section and with those of other sections of the General Code relating to leases of this kind. Said lease is accordingly approved by me as to legality and form, and my approval is endorsed upon said lease and upon the duplicate and triplicate copies thereof, and returned herewith.

Respectfully,
GILBERT BETTMAN,
Attorney General.