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WELFARE, COUNTY DEPARTMENT OF—COMPLETE CONTROL VESTED IN COUNTY COMMISSIONERS—VOUCHER FOR EXPENDITURES MUST BE APPROVED BY COMMISSIONERS—SENATE BILL 241, 97 GENERAL ASSEMBLY—SECTIONS 2511-2, 2511-3, 2511-4, 2572 G. C.

SYLLABUS:

By reason of the provisions of Senate Bill No. 241, enacted by the 97th General Assembly, amending Sections 2511-2, 2511-3 and 2511-4, General Code, complete control of the county department of welfare is vested in the county commissioners, and vouchers for expenditures in said department must be approved by said commissioners, as provided by Section 2572, General Code.

Columbus, Ohio, December 31, 1947

Hon. D. Deane McLaughlin, Prosecuting Attorney, Stark County
Canton, Ohio

Dear Sir:

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

> "Your opinion is requested on the following matters:
>
> On March 11, 1946, in Opinion No. 797, your office held that the vouchers of a County Department of Welfare created under Sections No. 2511-1 to 11, did not have to be approved by the County Commissioners (Section No. 2572). At the last regular session of the legislature Sections Nos. 2511-1 to 11, were changed in certain respects. The pertinent change to this issue is contained in Section No. 2511-2. The law as it existed at the time of your former opinion provided that 'under the direction of the County Commissioners, the County Director of Welfare shall have full charge and control of the County Department of Welfare.' That section now reads 'under the *control and* direction of the Board of County Commissioners the County Director of Welfare shall have full charge of the County Department of Welfare.' The other changes do not seem to be important in this issue inasmuch as the Stark County Commissioners wish to retain and conduct their Department of Welfare as formerly conducted.
>
> However, from some source, the Stark County Auditor has received word that the vouchers for this department must now be approved by the County Commissioners, and cannot be paid on the approval of the Director of Welfare.
>
> In view of the changes contained in Sections Nos. 2511-1 to 11, is it now your opinion that the vouchers of the Department of Welfare must be approved by the Board of Commissioners under Section No. 2572?"

When the opinion referred to was written, the statutes very definitely placed the control of the county department of welfare in the director, and, as was suggested there, the powers of the county commissioners appeared to be limited to the creation of the department, the appointment of a director, the appropriation of the necessary funds for operation, and general oversight.

The changes made by the General Assembly at its recent session seem very clearly to have been intended to take this control out of the hands of the director and to put it in the hands of the county commissioners. The intention of the General Assembly to make a radical change in this control appears quite clearly on comparison of the former statutes with the recent amendments. The act by which these changes were accomplished was Senate Bill No. 241. This act amended Sections 2511-2, 2511-3 and 2511-4, and repealed Section 2511-6, General Code.

The opening sentence of Section 2511-2 prior to amendment, read as follows:

> "Under the direction of the board of county commissioners, the county director of welfare shall have full charge and control of the county department of welfare."

As amended, this sentence reads:

> "Under the control and direction of the board of county commissioners, the county director of welfare shall have full charge of the county department of welfare."

Section 2511-3, General Code, provided that the salary of the county director was to be fixed by the board of county commissioners, but that the compensation of all his assistants and employees was to be fixed by the *county director.* This latter provision was changed to read as follows:

> "The compensation of all assistants and employes within or under the jurisdiction of the county department of welfare shall *likewise be fixed by the board of county commissioners.*"
> (Emphasis added.)

Section 2511-4 in outlining the powers of the department of welfare, provided:

> "The county department of welfare shall have the following powers and duties:" * * *

The amended section begins as follows:

> "The board of county commissioners *may designate* the county department of welfare to have, exercise and perform under its control and direction, all of the following powers and duties:" (Emphasis added.)

The enumeration of the powers of the department which follow the above language has not been changed. The change in phraseology, whereby the "control" has in each instance been transferred from the director to the county commissioners, and the fact that the act wherein these changes were made contains no further alteration in the law whatsoever, result in the conclusion that the director has been reduced from the status of an executive officer having broad powers, to that of an employe with administrative powers only.

Section 2572, General Code, reads as follows:

> "A bill or voucher for payment of money from any fund controlled by the commissioners must be filed with the county auditor and entered in a book for that purpose at least five days before its approval for payment by the commissioners. When approved, the date thereof shall be entered on such book opposite the claim, and payment thereof shall not be made until after the expiration of five days after the approval has been so entered."

Accordingly, since the entire control of a county department of public welfare is, under the terms of Sections 2511-2, 2511-3 and 2511-4, General Code, reserved to the county commissioners, it is my opinion that all vouchers for expenditures in said department must be approved by the board of county commissioners under the provisions of Section 2572 of the General Code.

Respectfully,

HUGH S. JENKINS,
Attorney General.