

OPINION 65-50**Syllabus:**

1. The County Soldiers' Relief Commission has no statutory authority as required by Article XII, Section 5 of the Ohio Constitution to make payment from tax revenue for tuition and expenses to public or private schools for re-training or additional training to benefit the future employment opportunities of veterans.

2. There is no statutory authority for a County Soldiers' Relief Commission to employ and pay a salary to an administrator to handle re-training of veterans along with placement of veterans in employment; therefore, no funds may be expended for the employment of an administrator.

To: James V. Barbuto, Summit County Pros. Atty., Akron, Ohio
By: William B. Saxbe, Attorney General, April 1, 1965

You request my opinion upon the following questions:

1. May the County Soldiers' Relief Commission expend its public funds in public and private schools for tuition and expenses where the Commission believes that retraining or additional training may benefit future employment opportunities of veterans either on or about to be on their relief roll?

2. May the County Soldiers' Relief Commission employ an administrator to handle such re-training or additional training of veterans along with placement of veterans in employment?

Article XII, Section 5 of the Ohio Constitution is as follows:

"No tax shall be levied except in pursuance of law; and every law imposing a tax shall state, distinctly, the object of the same, to which only, it shall be applied."

By this constitutional limitation the County Soldiers' Relief Commission, all of whose expenses, including employees' compensation and all relief awarded, are paid out of public funds collected through taxation, is prohibited from employing any person or authorizing any payment for the relief of any veteran unless expressly and distinctly authorized to do so by statute.

The following quotations from the Revised Code are the only ones stating, expressly and distinctly, the authority of the County Soldiers' Relief Commission relative to the answers to your questions.

The following is quoted from Section 5705.05, Revised Code:

"The purpose and intent of the general levy for

current expenses is to provide one general operating fund derived from taxation from which any expenditures for current expenses of any kind may be made, and the taxing authority of a subdivision may include in such levy the amounts required for carrying into effect any of the general or special powers granted by law to such subdivision, . . . Without prejudice to the generality of the authority to levy a general tax for any current expense, such general levy shall include:

. . .

"(E) In the case of counties, the amounts necessary . . . for the relief of honorably discharged soldiers, indigent soldiers, sailors, and marines, . . ." (Emphasis added)

The following is quoted from Section 5901.06, Revised Code:

"The soldiers' relief Commission may employ such investigators and clerks as are necessary to carry on relief work when the necessity arises. . ." (Emphasis added)

The following is quoted from Section 5901.08, Revised Code:

"Each township and ward soldiers' relief committee shall receive all applications for relief under sections 5901.02 to 5901.15, inclusive, of the Revised Code, from applicants residing in such township or ward. Such committee shall examine carefully into the case of each applicant and on the first Monday in May in each year make a list of all needy soldiers, sailors, marines, and airmen and of their needy parents, wives, widows, and minor children, who reside in such township or ward. The list shall include soldiers, sailors, marines, and airmen. . . who, in the opinion of such committee, require aid and are entitled to relief under such sections." (Emphasis added)

The following is quoted from Section 5901.11, Revised Code:

"On the last Monday in May in each year, the soldiers' relief commission shall meet and determine from the lists provided for in section 5901.08 of the Revised Code the probable amount necessary for the aid and relief of indigent persons for the ensuing year, . . . After determining the probable amount necessary for such purpose, the commission shall certify it to the board of county commissioners, which, at its June session, shall make the necessary levy, not to exceed five-tenths of a mill per dollar on the assessed value of the property of the county, to raise the required relief." (Emphasis added)

The following is quoted from Section 5901.12, Revised Code:

"On the fourth Monday of November of each year and at such other times as are necessary, the soldiers' relief commission shall meet . . . and shall examine carefully the lists and statements of those persons reported by the township and ward soldiers' relief committees, . . . If the commission is satisfied that any person so recommended is in need of assistance and is entitled thereto under such sections." (5901.02 to 5901.15) "the commission shall fix the amount to be paid each month to each person or family." (Emphasis added)

The following is quoted from Section 5901.13, Revised Code:

"Upon the conclusion of the examination and the determination of the monthly allowance as provided by section 5901.12 of the Revised Code, the soldiers' relief commission shall make a complete list of those persons to whom relief has been awarded. Such list shall show the monthly amount awarded to each person and the place of residence of such person. The commission shall certify such list to the county auditor. Within ten days thereafter such auditor shall transmit to each township clerk a list of the names of the persons in his township and the amount payable monthly to each." (Emphasis added)

The following is quoted from Section 5901.14, Revised Code:

"To each person certified by the soldiers' relief commission to the county auditor, such auditor shall issue his warrant upon the county treasurer for the monthly allowance awarded such person . . ." (Emphasis added)

From the above quotations it is obvious that, in carrying on the work for the payment of tax imposed relief money, the only authorized employees of the commission are investigators and clerks. Certainly that does not include an administrator who, as stated in Black's Law Dictionary, Third Edition, page 60, is "A manager of public affairs in behalf of others."

It is also obvious from such quotations from the Revised Code that the only authorized relief payable from taxation is for those who are presently indigent and in need of allowance payable directly to each of them monthly for the ensuing year, and does not include payments of tuition or expenses to public or private schools for training or education to avoid future need.

Webster's Third New International Dictionary defines "needy" as "Marked by want of the means of living: poverty-stricken", and gives "Indigent" as a synonym for "needy".

The following is quoted from 57 O. Jur. 2d 660:

"The terms 'pauper', 'poor', 'poor person', 'indigent person', 'person in distress', etc., in statutes providing for the relief of such persons, are used to describe that class of persons who are so destitute and helpless as to be dependent for their support upon public charity."

Accordingly, in response to your inquiries my opinion is as follows:

1. The County Soldiers' Relief Commission has no statutory authority as required by Article XII, Section 5 of the Ohio Constitution to make payment from tax revenue for tuition and expenses to public or private schools for re-training or additional training to benefit the future employment opportunities of veterans.
2. There is no statutory authority for a County Soldiers' Relief Commission to employ and pay a salary to an administrator to handle re-training of veterans along with placement of veterans in employment; therefore, no funds may be expended for the employment of an administrator.