

Note from the Attorney General's Office:

1985 Op. Att'y Gen. No. 85-066 was overruled in part by
1991 Op. Att'y Gen. No. 91-008.

OPINION NO. 85-066**Syllabus:**

1. Pursuant to R.C. 307.01, the board of county commissioners shall provide for the county auditor such postage "as it considers reasonably necessary for the proper and convenient conduct" of the auditor's office. The board may provide such postage either by direct expenditure from the general fund or by appropriating funds to the county auditor for such purpose.
2. Where the board of county commissioners has appropriated funds for postage to the county auditor and the auditor claims reimbursement from such appropriated funds for particular postage expenditures, the board of county commissioners may, pursuant to R.C. 307.55 and R.C. 319.16, refuse to allow such a claim if the expenditures were not lawfully incurred, and may allow no more than a reasonable amount for any such claim.
3. Pursuant to R.C. 325.20, the county auditor or an employee of the county auditor may attend an association meeting or convention at county expense only if the board of county commissioners approves an application for such attendance.

4. Pursuant to R.C. 325.191, the county auditor may establish programs for staff development and continuing education, to assist employees in the performance of current job assignments and the preparation for promotional advancements, only with the authorization of the board of county commissioners.
5. Assuming that R.C. 325.191 and R.C. 325.20, if applicable, have been satisfied, if the county auditor claims reimbursement from appropriated funds for registration fees for attendance at educational meetings, the board of county commissioners may refuse to allow such a claim if the expenditures were not incurred pursuant to statutory authority, and may allow no more than a reasonable amount for any such claim.
6. Pursuant to R.C. 5901.11, the board of county commissioners must make the necessary levy, not to exceed five-tenths of a mill per dollar on the assessed value of property in the county, to raise the amount certified by the soldiers' relief commission as the probable amount necessary to carry out its duties under R.C. Chapter 5901.
7. Pursuant to R.C. 325.20, a member or employee of the soldiers' relief commission may attend an association meeting or convention at county expense only if the board of county commissioners approves an application for such attendance. (1962 Op. Att'y Gen. No. 3067, p. 441, followed.)
8. Pursuant to R.C. 325.191, the soldiers' relief commission may establish programs for staff development and continuing education, to assist employees in the performance of current job assignments and the preparation for promotional advancements, only with the authorization of the board of county commissioners.
9. Assuming that R.C. 325.191 and R.C. 325.20, if applicable, have been satisfied, if the board of county commissioners has appropriated funds for the purposes of the soldiers' relief commission and the commission, under R.C. 5901.04, claims allowance from such appropriated funds for expenses incurred in attending meetings, seminars, schools, and related functions, the board of county commissioners may refuse to allow such a claim if the expenses were not incurred by the members of the commission in the performance of their duties, and may allow no more than a reasonable amount for any such claim.

To: John W. Allen, Richland County Prosecuting Attorney, Mansfield, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, October 29, 1985

You have requested an opinion on several questions concerning the authority of a board of county commissioners to control the expenditure of funds which have been appropriated for the use of other county officials or agencies. Because different county officials and agencies are governed by different statutory provisions, it is not possible to provide a single answer which will apply to all officials and agencies. I am, therefore, limiting this opinion to the particular situations to which your inquiry relates. Your specific concerns may be summarized as follows:

1. May the board of county commissioners refuse to allow claims for amounts expended by the county auditor for postage to send transcripts of hearings by certified mail to a special prosecutor who has been employed to work on such matters, when sufficient amounts have been appropriated to cover such claims?

2. May the board of county commissioners refuse to allow claims for amounts expended by the county auditor to pay for the registration of himself and his employees at a meeting conducted by the state on the subject of personal property tax of money market funds, when sufficient amounts have been appropriated to cover such claims?
3. May the board of county commissioners refuse to allow claims submitted by a soldiers' relief commission under R.C. 5901.04 for expenses incurred in attending meetings, seminars, schools, and related functions, when sufficient amounts have been appropriated to cover such claims?

R.C. 319.16 states, in part:

The county auditor shall issue warrants on the county treasurer for all moneys payable from the county treasury, upon presentation of the proper order or voucher for the moneys, and keep a record of all such warrants. . . . The auditor shall not issue a warrant for the payment of any claim against the county, unless it is allowed by the board of county commissioners, except where the amount due is fixed by law or is allowed by an officer or tribunal so authorized by law. (Emphasis added.)

A similar provision appears in R.C. 307.55, as follows:

No claims against the county shall be paid otherwise than upon the allowance of the board of county commissioners, upon the warrant of the county auditor, except in those cases in which the amount due is fixed by law or is authorized to be fixed by some other person or tribunal, in which case it shall be paid upon the warrant of the auditor upon the proper certificate of the person or tribunal allowing the claim. (Emphasis added.)

Thus, unless a claim against the county is fixed by law or is allowed by an officer or tribunal which is authorized to allow it, it may not be paid unless it is allowed by the board of county commissioners.¹

R.C. 5705.41 sets forth requirements which must be met before a subdivision or taxing unit may appropriate or expend money. In particular, R.C. 5705.41 provides that no money may be expended unless it has been properly appropriated and that expenditures may be made only by proper warrant drawn against an

¹ It is beyond the scope of this opinion to provide an exhaustive list of claims which need not be allowed by the board of county commissioners. It may, however, be noted generally that there are a number of types of such claims, which are either fixed by law or allowed by an officer or tribunal authorized to allow them. See, e.g., R.C. 319.54 (fixing compensation to be allowed to the county auditor on tax moneys collected by the county treasurer); R.C. 325.071 (providing furtherance of justice fund for the county sheriff and stating: "[u]pon the order of the county sheriff, the county auditor shall draw his warrant on the county treasurer, payable to the county sheriff or such other person as the order designates"); R.C. 325.12 (providing furtherance of justice fund for the county prosecutor and stating: "[u]pon the order of the prosecuting attorney, the county auditor shall draw his warrant on the county treasurer, payable to the prosecuting attorney or such other person as the order designates"); R.C. 325.17 (authorizing certain county officers to fix the compensation of their employees and providing that, when the compensation is so fixed, it "shall be paid biweekly from the county treasury, upon the warrant of the auditor"); R.C. 2941.51 (providing for the payment of appointed counsel "in the amount fixed by the court, plus the expenses that the court fixes and certifies to the auditor"); R.C. 3501.17 (providing for payment of expenses of the board of elections from the county treasury "upon vouchers of the board of elections certified to by its chairman

appropriate fund. R.C. 5705.41(B), (C). You have indicated that, in each situation about which you have inquired, sufficient funds have been properly appropriated to cover the claims which are being made. I am, therefore, in this opinion, not considering any issues concerning R.C. 5705.41.

I note that the situations with which you are concerned involve instances in which public officials have incurred certain expenditures and are seeking reimbursement of the amounts expended. I am limiting this opinion to such instances, and I am not considering situations involving contracts entered into on behalf of the county where payment for goods supplied or services rendered is to be made to one who is not a public official.

Turning first to your question about reimbursement for postage expenses incurred by the county auditor, I note that it is firmly established under Ohio law that no expenditures of public funds may be made without clear authority for such expenditures. See State ex rel. Locher v. Menning, 95 Ohio St. 97, 115 N.E. 571 (1916); Clark v. Board of County Commissioners, 58 Ohio St. 107, 50 N.E. 356 (1898). With respect to the matter of postage expenses, R.C. 307.01 states, in part: "The board [of county commissioners] shall . . . provide equipment, stationery, and postage, as it considers reasonably necessary for the proper and convenient conduct of county offices." This provision has been construed as permitting the county commissioners to provide such equipment, stationery, and postage either by direct expenditure from the general fund or by appropriating money to the various county offices to cover such costs, see 1983 Op. Att'y Gen. No. 83-053; 1954 Op. Att'y Gen. No. 4684, p. 694, and it provides the necessary statutory authority for reimbursing the auditor for amounts spent for postage. It is clear that the board of county commissioners has discretion under R.C. 307.01 in determining the extent to which postage is reasonably necessary for the proper and convenient conduct of a particular county office. See State ex rel. Winters v. Kratt, 19 Ohio App. 454 (Lucas County 1926); 1919 Op. Att'y Gen. No. 706, vol. II, p. 1309. See generally 1959 Op. Att'y Gen. No. 963, p. 653. In the situation which you have described, however, the board has evidently determined that it is reasonably necessary that the county auditor's office have funds available for postage, and the board has appropriated funds for that purpose. Your question is whether the board has authority to restrict the expenditure of those appropriated funds so that they may not be used to pay for the particular claim which the auditor has presented—that is, for sending transcripts by certified mail to a special prosecutor.

R.C. 307.55 and R.C. 319.16 provide generally that claims against the county may be paid only upon the allowance of the board of county commissioners, unless

or acting chairman and the director or deputy director, upon warrants of the county auditor"); R.C. 5731.47 (providing for the payment of fees and expenses incurred in connection with the collection of estate tax upon certification of the county auditor and approval of the Tax Commissioner); State ex rel. Giuliani v. Perk, 14 Ohio St. 2d 235, 237 N.E.2d 397 (1968) (where fees of counsel appointed to represent indigent defendants are fixed by the court and certified to the auditor, no action by the board of county commissioners is necessary to authorize the auditor to issue a warrant to pay the fees); Board of Commissioners v. A. Bentley & Sons Co. 103 Ohio St. 443, 134 N.E. 441 (1921) (concerning authority of county memorial building trustees to contract); State ex rel. Justice v. Thomas, 35 Ohio App. 250, 172 N.E. 397 (Marion County 1930) (concerning authority of judge to fix compensation of employees); State ex rel. Kay v. Carney, 71 Ohio L. Abs. 62, 128 N.E.2d 550 (C.P. Cuyahoga County 1954) (the county auditor is authorized under R.C. 325.17 and R.C. 5713.01 to fix the compensation of his employees, within the amount appropriated, and no approval of the county commissioners is required); 1964 Op. Att'y Gen. No. 1104, p. 2-216 (payments of compensation to persons employed by a county engineer under R.C. 325.17 need not be approved by the board of county commissioners). See generally State ex rel. Price v. Huwe, 103 Ohio St. 546, 134 N.E. 456 (1921); Smith v. Smith, 93 Ohio App. 294, 114 N.E.2d 480 (Clinton County 1952); 1953 Op. Att'y Gen. No. 3135, p. 517.

the amounts due are fixed by law or allowed by an officer or tribunal which is authorized by law to allow them. While it is clear that a county auditor has general authority to perform the functions of his office, I am aware of no provision of law which authorizes him to fix the amounts of postage due by his office, or the amounts of other expenditures authorized pursuant to R.C. 307.01. Compare R.C. 307.01 with, e.g., R.C. 325.17 (authorizing county officers, including the auditor, see R.C. 325.27, to fix the compensation of their employees and providing that, when the compensation is so fixed, it "shall be paid" upon the warrant of the auditor). See also State ex rel. Justice v. Thomas, 35 Ohio App. 250, 256, 172 N.E. 397, 399 (Marion County 1930) ("[t]he county commissioners are bound to accept this act of a common pleas court judge, who is authorized to fix the compensation [of his employees] by law, in the same manner as if it had been fixed by statutory enactment"). Absent a clear statement of authority, a county officer may not himself allow payment for expenditures which he incurs. See State ex rel. Flanagan v. McConnell, 28 Ohio St. 589 (1876) (holding that the clerk of a court of common pleas could not fix conclusively the amount to be paid for blanks necessary to the performance of his duties, but that the amount to be paid had to be allowed by the county commissioners). Cf. State ex rel. Giuliani v. Perk, 14 Ohio St. 2d 235, 237 N.E.2d 397 (1968) (where statute authorizes a court of common pleas, a court of appeals, or the Supreme Court to fix the fees of counsel appointed to represent indigent defendants, each of such fees is an "amount due. . . allowed by an officer or tribunal so authorized by law" under R.C. 319.16, and no action of the board of county commissioners allowing the claims is necessary to authorize the auditor to issue a warrant to pay the claims). Thus, it appears that, even though the board of county commissioners has appropriated funds to a county officer for purposes outlined in R.C. 307.01, payments from such funds may not be made unless they are allowed by the board pursuant to R.C. 307.55 and R.C. 319.16. See generally 1964 Op. Att'y Gen. No. 64-1296, p. 2-317; 1958 Op. Att'y Gen. No. 3039, p. 676.

There remains the question of the standard which the county commissioners are to apply in determining whether a particular claim should be allowed. It is clear that the purpose of requiring that claims against the county be allowed by the county commissioners is to permit the commissioners to determine whether a particular claim is valid. See, e.g., State ex rel. Gerke v. Board of Commissioners, 26 Ohio St. 364, 57 N.E. 215 (1875); Burnet v. Auditor of Portage County, 12 Ohio St. 54 (1843). Such a determination of validity has been found to consist of two parts: first, a determination as to whether the claim has a legal basis; and, second, a determination as to what amount should be paid. See, e.g., Jones v. Commissioners of Lucas County, 57 Ohio St. 189, 48 N.E. 882 (1897); State ex rel. Flanagan v. McConnell. As applied to the question concerning postage costs incurred by the county auditor, such a determination would consist of a finding by the county commissioners as to whether the costs were lawfully incurred—that is, whether they were incurred by the auditor in the performance of his duties—and, if they were, a finding by the county commissioners as to whether the amount of reimbursement requested is reasonable. See generally R.C. 307.01; State ex rel. Flanagan v. McConnell; State ex rel. Gerke v. Board of Commissioners; 1964 Op. No. 1296; 1958 Op. No. 3039.

It is clear that the making of a determination as to whether particular claims should be allowed involves questions of fact and matters of judgment and, thus, that I am unable to provide specific advice on such matters. See, e.g., 1930 Op. Att'y Gen. No. 2170, vol. II, p. 1241. It appears, as a general rule, that the board of county commissioners should allow claims for postage costs which were incurred by the county auditor, when sufficient funds have been appropriated to cover such claims. See generally 1959 Op. No. 963. It is, however, possible that, in a particular instance, the commissioners may find that the costs were not lawfully incurred, in which case the claim should not be allowed, or that the costs were not reasonable, in which case only a reasonable amount should be allowed. See generally Jones v. Commissioners of Lucas County; State ex rel. Flanagan v. McConnell. I make no comment on the question whether the particular expenditures with which you are concerned may be found to be unlawful or unreasonable. See generally 1959 Op. No. 963, at 656 (although R.C. 307.01 grants the county commissioners discretion concerning the provision of office facilities for county officers, "the obvious need for office facilities plainly indicates that the

board should provide such facilities; and failure to so provide is certainly not in the best interests of the people of the county and of the state"); 1954 Op. No. 4684, at 696 ("I, of course, cannot pass on the soundness of [the] discretion [of the county commissioners under R.C. 307.01] in each case, but it seems to me that it would depend upon such factors as the amount of money available for [uniforms for sheriff's deputies], the cost of the uniforms, and the other needs of the county offices"). I note, however, that a determination by the board of county commissioners to disallow a particular claim may be subject to challenge through appropriate legal proceedings. See, e.g., R.C. 307.56 ("[a] person aggrieved by the decision of the board of county commissioners may appeal to the court of common pleas, as provided by and under the authority of Chapter 2506. of the Revised Code"); R.C. 2506.01; Manufacturers Appraisal Co. v. Board of County Commissioners, 92 Ohio St. 179, 110 N.E. 646 (1915); Jones v. Commissioners of Lucas County; Commissioners of Belmont County v. Ziegelhofer, 38 Ohio St. 523 (1882); State ex rel. Gerke v. Board of Commissioners (syllabus, paragraph two) ("[i]f the county commissioners, upon a mistaken belief as to their authority, refuse to take cognizance of a claim upon which it is their duty to act, they may be compelled to do so by mandamus. But if, recognizing their authority to act on the claim, they consider it on the merits and decide against its validity, the remedy of the party aggrieved is not by mandamus, but by appeal to the Court of Common Pleas"); 1959 Op. Att'y Gen. No. 49, p. 20 (syllabus, paragraph two) (R.C. 307.56 "provides an appeal from an order by the board of county commissioners disallowing a claim against the county" under R.C. 307.55). See generally Mentor Lagoons, Inc. v. Board of County Commissioners, 3 Ohio Op. 2d 286, 145 N.E.2d 495 (Ct. App. Lake County), appeal dismissed sua sponte, 165 Ohio St. 520, 137 N.E.2d 885 (1956); In re Allowance of County Commissioners, 7 Ohio N.P. (n.s.) 8 (C.P. Sandusky County 1908).

Your second concern relates to the allowance of claims for amounts expended by the county auditor to pay for the registration of himself and his employees at a meeting conducted by the state on the subject of personal property tax of money market funds. Again, you indicate that sufficient funds to cover the expenditures have been appropriated.

As noted above, expenditures may not be made from the public treasury absent clear authority for such expenditures. See State ex rel. Locher v. Menning. See also State ex rel. Ferguson v. Maloon, 172 Ohio St. 343, 349, 176 N.E.2d 422, 427 (1961) ("public funds can not be expended for the travel of a public officer unless such expenditure is specifically authorized by law, and such authority can not be implied"); 1961 Op. Att'y Gen. No. 2538, p. 588. See also 1982 Op. Att'y Gen. No. 82-006.

Particular statutory provisions govern certain expenditures for travel and education of county officers and employees. R.C. 325.20 states:

Except as otherwise provided by law, no elected county officer, and no deputy or employee of the county, shall attend, at county expense, any association meeting or convention, unless authorized by the board of county commissioners. Before such allowance may be made, the head of the county office desiring it shall make application to the board in writing showing the necessity of such attendance and the probable costs to the county. If a majority of the members of the board approves the application, such expenses shall be paid from the moneys appropriated to such office for traveling expenses.

Pursuant to this provision, unless it is otherwise provided by law, expenses for attendance of the auditor or his employees at "any association meeting or convention" will be borne by the county only if such attendance is authorized by the board of county commissioners. Thus, even though money for traveling expenses has been appropriated to the office of the county auditor, expenditures covered by this section will not be allowed without specific approval of the board. It is not clear from the information which you have provided whether the meeting about which you have inquired may appropriately be classified as an "association meeting or convention" which is subject to R.C. 325.20. See generally State v. McKelvey, 12

Ohio St. 2d 92, 232 N.E.2d 391 (1967). It is therefore, not clear whether the expenses with which you are concerned are subject to this provision.

R.C. 325.191 contains provisions authorizing expenditures for purposes of staff development and continuing education. It states:

(A) The board of county commissioners, by an affirmative vote of at least two members, may authorize each of the several offices, departments, and agencies of the county service to establish programs for staff development and continuing education, to assist employees to more adequately and effectively carry out current job assignments and to prepare for promotional advancements. Each full-time employee in an office, department, or agency adopting such a program shall be entitled to participate pursuant to the rules established by the office, department, or agency for administration of the program.

(B) Expenditures on behalf of staff development and continuing education shall only be made to further the interests of the participating office, department, or agency of the county. Any plan adopted pursuant to this section may include programs for employee orientation, on-the-job training, tuition reimbursement, educational material reimbursement, and educational leaves of absence, and may include the expenditure of training funds for special teachers, consultants and educational facilities necessary to implement the program.

Pursuant to this provision, a county office, such as the office of the county auditor, may carry on programs for staff development and continuing education "to assist employees to more adequately and effectively carry out current job assignments and to prepare for promotional advancements" only if the board of county commissioners has authorized the establishment of such programs. While I am aware of no authority which has directly addressed the question, it appears that expenses incurred in the implementation of such programs may not be paid unless they are allowed by the county commissioners pursuant to R.C. 307.55 and R.C. 319.16, even though funds have been appropriated for such purposes. It has, further, been established that an elected officer is, himself, not eligible to participate in programs established pursuant to R.C. 325.191. See 1981 Op. Att'y Gen. No. 81-073 (a county engineer is not an employee of his office and, therefore, may not participate in programs established under R.C. 325.191).

As with questions involving reimbursement of postage expenses, the standard to be applied by the county commissioners in determining whether particular claims for registration fees should be allowed is whether the expenses were lawfully incurred—whether under R.C. 325.191, R.C. 325.20, or some other statutory authority—and whether they are reasonable in amount. See, e.g., Jones v. Commissioners of Lucas County; State ex rel. Flanagan v. McConnell. The county commissioners may refuse to allow a claim for reimbursement of fees if the fees were not paid pursuant to statutory authority, and may allow no more than a reasonable amount for any claim.

Your final concern relates to claims presented by the Richland County Soldiers' Relief Commission for expenditures incurred in attending meetings, seminars, schools, and related functions. Your letter makes reference to the presentation of an itemized statement of expenses under R.C. 5901.04, and I am addressing this opinion only to the matter of allowance of expenses which appear on such a statement.

R.C. 5901.11 provides that a soldiers' relief commission is to determine the probable amount necessary to meet its statutory duties of providing aid and relief to indigent persons and to certify that amount to the board of county commissioners. The board of county commissioners is then required to make the necessary levy, not to exceed five-tenths of a mill per dollar on the assessed value of property in the county, to raise the required amount. R.C. 5901.11. It has been held that it is a mandatory duty of the board of county commissioners to provide the amount which is certified as needed by the soldiers' relief commission, within

the five-tenths mill limitation. See, e.g., State ex rel. Binder v. Board of County Commissioners, 174 Ohio St. 23, 186 N.E.2d 476 (1962); 1983 Op. Att'y Gen. No. 83-032; 1948 Op. Att'y Gen. No. 3435, p. 348.

Although R.C. 5901.11 mentions only the amounts required for furnishing aid and relief, the funding procedure set forth in that section applies to all lawful expenditures of the commission, including costs of administration, employees' salaries, and operating expenses. R.C. 5901.66 authorizes the soldiers' relief commission to employ investigators and clerks and provides that "[t]he compensation of such investigators and clerks shall be established by the commission, and shall be paid from the county allotment of soldiers' relief funds." R.C. 5901.07, which authorizes the commission to hire a service officer and certain other employees, states, in part:

The board of county commissioners, upon the recommendation or approval of the [soldiers' relief] commission, may provide suitable office space, supplies, and office and incidental expenses for such service officer. The compensation of the service officer and of any employee and any expenses incurred under this section shall be paid out of funds appropriated to the commission, as provided in [R.C. 5901.11].

See also 1962 Op. Att'y Gen. No. 3067, p. 441 at 445 (compensation and expenses for members of the soldiers' relief commission should be paid out of funds available from the tax levied under R.C. 5901.11); 1948 Op. No. 3435, at 351 ("we may consider that [G.C. 2936, now R.C. 5901.11] has been broadened in its scope so as to include all matters which are placed within the jurisdiction of the soldiers' relief commission").

It is evident that R.C. 5901.11 grants a soldiers' relief commission certain discretion to determine, within the five-tenths mill limitation, the amounts that will be necessary to serve its purposes. It is, however, clear that a soldiers' relief commission is not totally autonomous with respect to its expenditures. R.C. 5901.04 states:

On the presentation of an itemized statement, the board of county commissioners shall allow the persons composing the soldiers' relief commission the actual expenses incurred in the performance of their duties, and a fair compensation for their services. The county auditor shall issue his warrant upon the county treasurer for the amount so allowed.

Pursuant to R.C. 5901.04, the members of a soldiers' relief commission may not receive funds to cover the expenses incurred in the performance of their duties or payments as compensation for their services unless such amounts are allowed by the county commissioners. See, e.g., 1980 Op. Att'y Gen. No. 80-024. Cf. Madden v. Bower, 20 Ohio St. 2d 135, 141, 254 N.E.2d 357, 361 (1969) ("[t]he fund provided by [a levy under R.C. 5901.11] is totally under the control of the Soldiers' Relief Commission"). Compare R.C. 5901.04 with R.C. 5901.06 ("[t]he compensation of such investigators and clerks [of the soldiers' relief commission] shall be established by the commission and shall be paid from the county allotment of soldiers' relief funds").

R.C. 5901.04 states that, on the presentation of an itemized statement, the board of county commissioners "shall" allow members of the soldiers' relief commission the actual expenses incurred in the performance of their duties. Thus, it appears that the allowance of expenses incurred by the commission members in the performance of their duties is mandatory. See Dorrian v. Scioto Conservancy District, 27 Ohio St. 2d 102, 271 N.E.2d 834 (1971); Op. No. 80-024; 1962 Op. No. 3067 (syllabus, paragraph 2) ("[t]he authority of the board of county commissioners over funds of the soldiers' relief commission is limited to making the necessary levy under [R.C. 5901.11], and allowing expenses and compensation to members under [R.C. 5901.04]"). It is, however, clear that the claims are not fixed by law or authorized to be fixed by another person or tribunal for purposes of R.C. 307.55 and R.C. 319.16, but that they must be approved by the county commissioners before

payment may be made. See R.C. 5901.04; 1940 Op. Att'y Gen. No. 3133, vol. II, p. 1065 (considering G.C. 2932 and G.C. 2570, predecessors to R.C. 5901.04 and R.C. 319.16, respectively, and indicating that, in determining whether to pay expenses of the soldiers' relief commission, the county commissioners have the duty of determining whether particular expenses were incurred by members of the commission in the performance of their duties). Accord, 1930 Op. Att'y Gen. No. 2332, vol. II, p. 1445. It appears, therefore, that the county commissioners remain subject to the restrictions which are generally applicable to the allowance of claims under R.C. 307.55 and R.C. 319.16—that the commissioners may not allow a claim unless it has a legal basis and is reasonable in amount. See Jones v. Commissioners of Lucas County; State ex rel. Flanagan v. McConnell; 1940 Op. No. 3133; 1930 Op. No. 2332. Cf. State ex rel. Johnson v. Washburn, 30 Ohio Op. 435, 439 (C.P. Lorain County 1944) ("[a]ctual expense means real in opposition to speculative; something existing [sic] in act [sic] ") (emphasis in original); 1958 Op. Att'y Gen. No. 2208, p. 366 (reimbursement may not exceed amount actually expended).

It should be noted, in particular, that the requirement that actual expenses be allowed extends only to expenses "incurred in the performance of [the] duties" of commission members. R.C. 5901.04. See, e.g., 1931 Op. Att'y Gen. No. 2949, vol. I, p. 243 (expenses incurred by members of a soldiers' relief commission in organizing township committees and investigating the merits of applications for relief are expenses incurred in the performance of the duties of the members of the commission and must, therefore, be allowed under G.C. 2932, now R.C. 5901.04). Thus, the board of county commissioners does not have the duty—or, in fact, the authority—to allow, under R.C. 5901.04, expenses which were incurred for other purposes. See, e.g., 1940 Op. No. 3133 (syllabus, paragraph 2) ("[t]he board of county commissioners is not by [G.C. 2932, predecessor to R.C. 5901.04] granted authority to authorize the issuance of warrants for the payment of the traveling expenses of the members of the county soldiers' relief commission to and from Columbus for the sole purpose of a conference with state officials with respect to the legal interpretation which should be given to a statute, since the performance of such act is not a duty of the members of the soldiers' relief commission"); 1930 Op. No. 2332 (concluding that county commissioners were not authorized to allow the members of soldiers' relief commissions the expenses incurred in attending a meeting called by the Governor, at the request of the Adjutant General, to instruct the members as to the proper administration of the law and to promote the uniformity of operations of soldiers' relief commissions). Cf. R.C. 5901.07 (providing that the board of county commissioners, upon the recommendation or approval of the soldiers' relief commission, may provide office and incidental expenses for the service officer); 1962 Op. No. 3067.

The general principle for determining when expenses may be allowed was discussed in connection with the expenses of a soldiers' relief commission in 1930 Op. No. 2332, at 1447 (citations omitted), as follows:

The controlling principle running through the observations of text writers and Opinions of former Attorneys General, is that an officer may be reimbursed for expenses when in the actual performance of duties imposed by law, but that those expenses may not be allowed when such public [employee] or officer is on a mission simply to acquire general information with respect to the duties of his office or position and not in furtherance of some specific project or undertaking then under way.

As is discussed above, determinations as to whether particular expenses were incurred in the performance of statutory duties involve questions of fact, and this office is, therefore, unable to provide advice concerning particular expenditures. I note, however, that it has been observed that determinations as to which matters constitute the duties of a specific office, particularly with respect to travel, may vary as our society and technology change. See 1930 Op. No. 2170 at 1244 ("consideration must be given to the fact that because of the complexity of our civilization and modern methods of doing business, the incurring of expenses by public officers in the performance of their public duties will now oftentimes be

considered necessary, whereas in former times such expenses would have been considered improper").

It is, further, clear that the county commissioners have a duty to provide funding for the soldiers' relief commission. See, e.g., State ex rel. Binder v. Board of County Commissioners; Op. No. 83-032. The county commissioners may not render such funding ineffective by refusing to allow claims for proper expenses which are submitted pursuant to R.C. 5901.04. See generally Madden v. Bower, 20 Ohio St. 2d at 141, 254 N.E.2d at 361 (1969) ("[t]he fund provided by [a levy under R.C. 5901.11] is totally under the control of the Soldiers' Relief Commission"); Taylor v. Commissioners of Ross County, 23 Ohio St. 22 (1872) (a public body may not do indirectly that which it may not do directly); 1931 Op. No. 2949.

With respect to expenditures involving travel and education expenses, I note that a predecessor of mine concluded specifically that members and employees of a soldiers' relief commission are subject to R.C. 325.20 and must obtain the authorization of the board of county commissioners to attend, at county expense, an association meeting or convention. 1962 Op. No. 3067. I concur in that judgment. But see 1976 Op. Att'y Gen. No. 76-004 (suggesting that, because there was specific statutory provision for trustees of a county hospital board and members of a county board of mental retardation to be reimbursed for expenses incurred in the performance of their duties, they could attend conferences at county expense without obtaining prior approval of the county commissioners under R.C. 325.20).² It appears, further, that the commission would be subject to R.C. 325.191 in establishing programs for staff development and continuing education. See 1982 Op. Att'y Gen. No. 82-081 (a soldiers' relief commission is a decision-making body of the county for purposes of R.C. 121.22); 1980 Op. Att'y Gen. No. 80-102 (the veterans' service officer and his staff are county employees); 1977 Op. No. 77-094; 1962 Op. No. 3067; 1948 Op. Att'y Gen. No. 4130, p. 594; 1940 Op. No. 3133.

In conclusion, it is my opinion, and you are hereby advised, as follows:

1. Pursuant to R.C. 307.01, the board of county commissioners shall provide for the county auditor such postage "as it considers reasonably necessary for the proper and convenient conduct" of the auditor's office. The board may provide such postage either by direct expenditure from the general fund or by appropriating funds to the county auditor for such purpose.
2. Where the board of county commissioners has appropriated funds for postage to the county auditor and the auditor claims reimbursement from such appropriated funds for particular postage expenditures, the board of county commissioners may, pursuant to R.C. 307.55 and R.C. 319.16, refuse to allow such a claim if the expenditures were not lawfully incurred, and may allow no more than a reasonable amount for any such claim.
3. Pursuant to R.C. 325.20, the county auditor or an employee of the county auditor may attend an association meeting or

² I am aware that in 1964 Op. Att'y Gen. No. 64-1296, p. 2-317, one of my predecessors concluded that the board of county commissioners could pass only upon the reasonableness of expenditures incurred by a juvenile judge in attending meetings or conventions which were generally subject to R.C. 325.20, and not upon the question whether such attendance was necessary to the performance of the duties of the office. In that case, however, R.C. 2151.10, the statute providing for the appropriation of money to meet the expenses of the court, specifically included "reasonable expenses of the juvenile judge and such officers and employees as he may designate in attending conferences at which juvenile or welfare problems are discussed." Absent similar language which specifically authorizes attendance at particular types of events, I believe that any expenditure of county funds under R.C. 325.20 must be approved under the general standard of lawfulness and reasonableness applicable under R.C. 307.55 and R.C. 319.16.

convention at county expense only if the board of county commissioners approves an application for such attendance.

4. Pursuant to R.C. 325.191, the county auditor may establish programs for staff development and continuing education, to assist employees in the performance of current job assignments and the preparation for promotional advancements, only with the authorization of the board of county commissioners.
5. Assuming that R.C. 325.191 and R.C. 325.20, if applicable, have been satisfied, if the county auditor claims reimbursement from appropriated funds for registration fees for attendance at educational meetings, the board of county commissioners may refuse to allow such a claim if the expenditures were not incurred pursuant to statutory authority, and may allow no more than a reasonable amount for any such claim.
6. Pursuant to R.C. 5901.11, the board of county commissioners must make the necessary levy, not to exceed five-tenths of a mill per dollar on the assessed value of property in the county, to raise the amount certified by the soldiers' relief commission as the probable amount necessary to carry out its duties under R.C. Chapter 5901.
7. Pursuant to R.C. 325.20, a member or employee of the soldiers' relief commission may attend an association meeting or convention at county expense only if the board of county commissioners approves an application for such attendance. (1962 Op. Att'y Gen. No. 3067, p. 441, followed.)
8. Pursuant to R.C. 325.191, the soldiers' relief commission may establish programs for staff development and continuing education, to assist employees in the performance of current job assignments and the preparation for promotional advancements, only with the authorization of the board of county commissioners.
9. Assuming that R.C. 325.191 and R.C. 325.20, if applicable, have been satisfied, if the board of county commissioners has appropriated funds for the purposes of the soldiers' relief commission and the commission, under R.C. 5901.04, claims allowance from such appropriated funds for expenses incurred in attending meetings, seminars, schools, and related functions, the board of county commissioners may refuse to allow such a claim if the expenses were not incurred by the members of the commission in the performance of their duties, and may allow no more than a reasonable amount for any such claim.