

1751.

COUNTY RELIEF DIRECTOR—COUNTY COMMISSIONERS MAY NOT
PAY HIM COMPENSATION WHEN EMPLOYED WITHOUT AU-
THORITY OF LAW.

SYLLABUS:

Where, without authority of law, the county commissioners have employed a county relief director, the county commissioners may not pay from county funds to such person so employed, any compensation for services rendered pursuant to such illegal contract of hire.

COLUMBUS, OHIO, October 21, 1933.

HON. HOWARD C. BLACK, *Prosecuting Attorney, London, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion, which reads:

“Opinion No. 862 of the Attorney General given on May 23, 1933, states the county commissioners can not spend public funds for a county relief director, or expenses pertaining to such office. I would like to know how such employes could be paid.

In this county the board of county commissioners has hired a man to direct this work, and his salary was to be \$65.00 monthly, but now we do not know how he can be paid.”

Under date of May 23, 1933, I rendered the opinion referred to in your request. As stated in such opinion, the board of county commissioners has such powers, and such only as have been granted it by statute. *Peter vs. Parkinson*, 83 O. S. 36, 49; *Jones, Auditor, vs. Commissioners of Lucas County*, 57 O. S. 189; *Elder vs. Smith*, 103 O. S. 369.

As stated in the first paragraph of the syllabus of *Jones vs. Commissioners*, *supra*:

“The board of county commissioners represents the county, in respect to its financial affairs, only so far as authority is given it by statute.”

You do not state in your letter the duties of the county relief director, however, since you refer to my opinion No. 862 as holding that such officer and his expenses may not be paid from public funds, I assume that the duties of such officer are the same as those performed by the county relief board, as described in such opinion, that is, to investigate the needs of unemployed for the purpose of furnishing contractors on public improvements with lists of needy unemployed, with a view of having them employed in the furtherance of such work. As stated in such opinion:

“I am unable to find any provision of statute placing the duty of compiling such list of the unemployed within the county for such purpose.”

Neither in Amended Senate Bill No. 4, enacted by the First Special Session of the 89th General Assembly, nor in any of the amendments or supplements

to such act is there any authority granted to or duly conferred on the county commissioners to prepare or furnish such list of names to contractors. (See Senate Bill No. 2, enacted by the Second Special Session of the 89th General Assembly; Senate Bill No. 63 of the 90th General Assembly; House Bill No. 7 of the First Special Session of the 90th General Assembly). My research fails to disclose any provision of statute authorizing the county commissioners to conduct an employment bureau, whether for indigents or otherwise.

If there is no statutory authority to employ a county relief director, there necessarily would be no legal method of paying one illegally employed.

It has been repeatedly held that when a quasi public corporation enters into an alleged contract for the payment of money which contract is ultra vires, or beyond the powers of such body, there can be no recovery against such body. *Welston vs. Morgan*, 65 O. S. 219; *Buchanan Bridge Co. vs. Campbell*, 60 O. S. 406; *North vs. Huron Co.*, 30 O. C. C., 145. Nor are the county commissioners liable in their individual capacity where they acted in good faith. *Thomas vs. Wilton*, 40 O. S. 516.

Specifically answering your inquiry it is my opinion that where, without authority of law, the county commissioners have employed a county relief director, the county commissioners may not pay from county funds to such person so employed, any compensation for services rendered pursuant to such illegal contract of hire.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1752.

OHIO LIQUOR CONTROL COMMISSION—UNAUTHORIZED TO REMIT
PENALTY IMPOSED UPON CLASS A PERMITTEE FOR FAILURE
TO FILE RETURN WITH COMMISSION.

SYLLABUS:

The Ohio Liquor Control Commission does not have the power to remit a penalty imposed by it upon a class A permittee for failure to file a return with the Ohio Liquor Control Commission as required by law prior to the enactment of House Bill No. 4, enacted in the special session of the 90th General Assembly.

COLUMBUS, OHIO, October 21, 1933.

Ohio Liquor Control Commission, Columbus, Ohio.

GENTLEMEN:—This will acknowledge your letter of recent date wherein you request my opinion as to whether the Ohio Liquor Control Commission has the power to remit a penalty imposed by it upon a class A permittee for failure to file a return as required by law.

It is a well established rule that public officers and boards have only such powers as have been expressly conferred upon them by law and such implied powers as are necessary for the exercise of those expressly granted.

The only provision relating to penalties for failure to file a report with the Ohio Liquor Control Commission is that contained in section 6212-60, General