

7571

COUNTY WELFARE DIRECTOR—COUNTY VETERAN'S SERVICE OFFICER—SOLDIER'S RELIEF COMMISSION—INCOMPATIBILITY—SMALL COUNTIES MAY NOT EMPLOY ONE PERSON FOR BOTH POSITIONS—WITH OR WITHOUT COMPENSATION—329.05 R. C.—329.01 R. C.—329.04 R. C.—329.11 R. C.

SYLLABUS:

Under Section 329.05, Revised Code, which prohibits a county department of welfare to manage or control a soldiers' relief commission, the offices of a County Welfare Director and County Veterans' Service Officer for the Soldiers' Relief Commission are incompatible.

Columbus, Ohio, January 2, 1957

Hon. Robert A. Carton, Prosecuting Attorney
Coshocton County, Coshocton, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"In order to have a more effective relief program, can a small county, with limited relief funds, employ one qualified person to serve both as County Welfare Director, and as County Veterans' Service Officer for the Soldiers Relief Commission; the latter position to be on a volunteer basis without compensation.

"An objection to such a procedure has been raised on the grounds that Sec. 329.05, O. R. C. provides in part:

'does not permit a county department of welfare to manage or control . . . soldiers relief commission.'

"This situation raises these two questions:

"Are the office of County Welfare Director and County Veterans' Service Officer for the Soldiers Relief Commission compatible, whether compensation is paid by the Soldiers Relief Commission or these services performed on a voluntary basis?

"Would the duties of a County Veterans' Service Officer in assisting veterans to obtain their rights under both federal and state laws, make it impossible for a person to perform faithfully and impartially the duties of both the office of County Welfare Director and County Veterans' Service Officer."

Section 329.01, et seq., Revised Code, deal with County Departments of Welfare. Section 329.01 provides in part:

"The board of county commissioners may, by a resolution which has been unanimously adopted, establish a county department of welfare which, when so established, shall be governed by Sections 329.01 to 329.11, inclusive, of the Revised Code. * * * The department shall consist of a county director of welfare appointed by the board, and such assistants and other employees as are necessary for the efficient performance of the welfare service of the county. * * *"

Section 329.05, Revised Code, provides in part that:

"The county department of welfare may administer or assist in administering any state or local public welfare activity

other than those mentioned in Section 329.04 of the Revised Code, supported wholly or in part by agreement between the board of county commissioners and the officer, department, board, or agency in which the administration of such activity is vested. * * *

“This section does not permit a county department of welfare to manage or control county or district tuberculosis or other hospitals, humane societies, detention homes, jails or probation departments of courts, or soldiers’ relief commissions.”

(Emphasis added.)

It thus appears from reading Section 329.05 that a county department of welfare may administer or assist in administering welfare activities other than those mentioned in Section 329.04. Revised Code, but the county department of welfare may not manage or control soldiers’ relief commissions.

As I understand the situation in your request, the County Director of Welfare would also serve as County Service Officer for the Soldiers’ Relief Commission in the same county. It seems quite clear that the legislature has expressed its purpose that the county department of welfare and the soldiers’ relief commission are to be kept quite separate. Since the legislature has prohibited a county department of welfare to “manage” or “control” a soldiers’ relief commission in Section 329.05, certainly a County Welfare Director could not also serve as County Service Officer for the Soldiers’ Relief Commission on any basis. The very words of Section 329.05 negate any possibility that the county department of welfare could extend its control over the soldiers’ relief commission and it seems implicit that the respective heads of the two agencies must remain separate also.

In answer then to the questions presented in your request, it is my opinion that under Section 329.05, Revised Code, which prohibits a county department of welfare to manage or control a soldiers’ relief commission, the offices of a County Welfare Director and County Veterans’ Service Officer for the Soldiers’ Relief Commission are incompatible.

Respectfully,

C. WILLIAM O’NEILL

Attorney General