

5159.

INDUSTRIAL COMMISSION—PREMIUMS COLLECTED FOR
PUBLIC WORK RELIEF EMPLOYEES' COMPENSATION
FUND WITHOUT USE OF COUNTY PAYROLL—BASIS
FOR COLLECTION OF SAID PREMIUMS.

SYLLABUS:

1. *It is not necessary for the Industrial Commission to use the pay-roll of a county and its various sub-divisions as a basis for collecting premiums for the Public Work Relief Employees' Compensation Fund.*

2. *The Industrial Commission is required by law to collect sufficient money from the counties and their taxing sub-divisions to pay the compensation provided by law for employees and dependents of employees from the Public Work Relief Employees' Compensation Fund.*

3. *It is not illegal for the Industrial Commission to take as a basis for the collection of said premiums the amount paid to relief workers during the years that said counties and the taxing sub-divisions therein have employed work-relief employees.*

COLUMBUS, OHIO, February 13, 1936.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

DEAR SIRs: This will acknowledge your recent request for my opinion upon the following:

"House Bill No. 495, 116 O. L. 212, provides for the establishment of a separate fund to be known as Public Work Relief Employees' Compensation Fund, which is to be established by premiums collected under the provisions of this act paid by any sub-division employing work relief employees. The act authorizes the Industrial Commission to fix the rate and collect such premiums.

"QUESTION: May the Industrial Commission collect premiums from counties and townships, based upon the amount paid to work relief employees for a period of four years prior to the effective date of this act?"

Section 3496-3, General Code, relating to the Public Work Relief Employees' Compensation Fund, reads as follows:

"The provisions of this act shall apply to all work-relief employees who are injured and to the dependents of such as

are killed, whether such injury or death occurs prior to the operative date of this act or subsequent thereto.”

This section specifically provides that if a work-relief employee is injured or killed, the employee or the dependents of a killed employee may have the benefits of the act even though the injury or death occurred prior to the date the act became operative.

Section 3496-5, General Code, provides in part as follows:

“Every employer mentioned herein, shall contribute to the public work-relief employees’ compensation fund the amount of money determined by the industrial commission. * * * The manner of determining the contributions and classification of such employers, shall be the same as is provided in sections 1465-63 to 1465-67, both inclusive, of the General Code; and all the provisions of said sections shall apply in so far as said provisions are applicable to such employers, * * *.”

An employer is defined by this act in Section 3496-1, General Code, as follows:

“* * *

(c) The term ‘employer’ shall mean the state and the state relief commission or any other state agency having supervision or control of work-relief employees as defined in this act, either directly or through agencies; each county; city; township; incorporated village and school district.”

It is very apparent that a county is an employer within the meaning of the act and that Section 3496-5 requires it to contribute to the Public Work Relief Employees’ Compensation Fund in the amount of money which the Industrial Commission shall determine. The manner of determining the amount is the same as provided by the Workmen’s Compensation Act, Sections 1465-63 to 1465-67, both inclusive, of the General Code. The provisions of Section 1465-63, General Code, are in part as follows:

“* * * In fixing the amount of contribution to be made by the county, for such county and for the taxing districts therein, the industrial commission of Ohio shall classify counties and other taxing districts into such groups as will equitably determine the contributions in accordance with the relative degree of hazard, and shall also merit-rate such individual counties, taxing districts or groups of taxing districts in accordance with

their individual accident experience so as ultimately to provide for each taxing subdivision *contributing an amount sufficient to meet its individual obligations and to establish a solvent public fund * * **" (Italics ours.)

It is to be noted that the pole-star of this section is the collection from the counties of an amount sufficient to meet the individual obligations of each county.

Section 1465-65, General Code, provides that the fiscal officer of each taxing district shall furnish to the county auditor and that each county auditor shall furnish to the industrial commission a list showing the amount of money expended for services of employees during the preceding year, and then provides that:

"The industrial commission shall on receipt of such lists certify to each county auditor and the treasurer of state the amount of money due from the county, for such county and for the several taxing districts therein, as its proper contribution to the public insurance fund."

There is nothing in the Workmen's Compensation Act which provides or requires that the Industrial Commission shall figure premiums of a public sub-division upon a pay-roll basis. It is imperative for the commission to make some determination of the amount of money due from the counties and their various sub-divisions in order that sufficient money may be in the fund to pay the obligations of the fund. It would not be improper for the commission to use the pay-rolls as a basis for the determination of the amount of premiums due at a certain rate providing that such computation would bring into the fund the necessary amount and only the necessary amount to fulfill the obligations of the fund. And, inasmuch as the law provides for compensation for injuries and death occurring previous to the enactment of the law, it is necessary for the commission to make provision to obtain funds for that purpose, and it would be immaterial whether it used the pay-rolls for the current year or the pay-rolls for four years previous, to determine the amount of such premiums.

If the commission used only the pay-rolls of the current year the premiums would have to be much larger than if it used the pay-rolls of a longer period to secure the amount required. So long as the commission is collecting only the proper amount required to pay the obligations created by law, there would be no illegal exercise of its power in the manner of its fixing the amount of premiums.

It is therefore my opinion (1) that it is not necessary for the

Industrial Commission to use the pay-roll of a county and its various sub-divisions as a basis for collecting premiums for the Public Work Relief Employees' Compensation Fund; (2) that the Industrial Commission is required by law to collect sufficient money from the counties and their taxing sub-divisions to pay the compensation provided by law for employees and dependents of employees from the Public Work Relief Employees' Compensation Fund, and (3) that it is not illegal for the Industrial Commission to take as a basis for collection of said premiums the amount paid to relief workers during the years that said counties and the taxing sub-divisions therein have employed work-relief employees.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5160.

APPROVAL—BONDS OF PARMA CITY SCHOOL DISTRICT,
CUYAHOGA COUNTY, OHIO, \$2,500.00.

COLUMBUS, OHIO, February 14, 1936.

Industrial Commission of Ohio, Columbus, Ohio.

5161.

APPROVAL—BONDS OF CITY OF CAMBRIDGE, GUERNSEY
COUNTY, OHIO, \$26,000.00.

COLUMBUS, OHIO, February 14, 1936.

Industrial Commission of Ohio, Columbus, Ohio.