

officers was considered in the 1930 opinion of the Attorney General, *supra*. The third branch of the syllabus reads as follows:

“The traveling expenses of municipal officers or employes, incurred in attending conventions of like municipal officers and employes cannot be legally paid from public funds, even though authorized by the taxing authority of a municipal corporation, unless the attendance upon such convention is for the purpose of acquiring information relative to and necessary for the furtherance of a definite, presently contemplated undertaking for the benefit of the municipality in the performance of a duty enjoined by law.”

In the present case it does not appear that the Director of Public Welfare attended the conference for the purpose of acquiring information necessary for the furtherance of a definite, presently contemplated municipal undertaking. I do not deprecate the general educational value of attending a conference of public officials. However, it seems self-evident that the benefit of such conference redounds primarily to the individual and only incidentally to the general public.

In view of the opinion of the Attorney General for 1930, *supra*, and the fact that the Director of Public Welfare was not acting in the performance of any duty enjoined by law, I am of the opinion that the Director of Public Welfare of a city may not be reimbursed from public funds for expenses incurred in attending a state conference of welfare officers.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1682.

AUTHORITY TO LICENSE PRIVATE EMPLOYMENT OFFICES
—OHIO STATE EMPLOYMENT SERVICE—ADMINISTRATION AND SUPERVISION OF OHIO STATE EMPLOYMENT SERVICE DIVISION.

SYLLABUS:

1. *By express provisions of Section 1345-15, General Code, the authority to license and supervise private employment offices is given to the unemployment compensation commission, effective January 1, 1938.*

2. *The duty of licensing and supervising private employment offices should come under the administration of the newly created Ohio State employment service division, as organized and set up by the unemployment compensation commission on January 1, 1936.*

HON. W. T. DOE, *Director, Ohio State Employment Service, Columbus, Ohio.*

COLUMBUS, OHIO, December 27, 1937.

DEAR SIR: This will acknowledge the receipt of your recent communication requesting an opinion from this office as follows:

"When, on January 1, 1938, the Ohio State Employment Service is transferred from the Department of Industrial Relations to the Unemployment Compensation Commission, does the responsibility for the licensing and supervising of private employment offices, included among the duties of the Department of Industrial Relations according to G. C. 871-22 (9) and 154-45, rest with the Department of Industrial Relations or with the Unemployment Compensation Commission?"

Does G. C. Section 1345-15 place this responsibility upon the Ohio State Employment Service as a division of the Unemployment Compensation Commission as of January 1, 1938?"

The pertinent powers and duties of the industrial commission may be found in Section 871-22 of the General Code. This section provides in part as follows:

"It shall also be the duty of the industrial commission, and it shall have full power, jurisdiction and authority:

(9) To establish and conduct free employment agencies, and on and after the first day of September, 1913, *to license and supervise the work of private employment offices*, to do all in its power to bring together employers seeking employes and working people seeking employment, to make known the opportunities for self employment in this state, to aid in inducing minors to undertake promising skilled employments, and to encourage wage earners to insure themselves against distress from unemployment. It shall investigate the extent and causes of unemployment in the State of Ohio and the remedies therefor in this and other states and countries, and it shall devise and adopt the most efficient means in its power to avoid unem-

ployment, to provide employment and to prevent distress from involuntary idleness.” (Italics the writer’s.)

Under this code section the supervision and licensing of private employment offices was given to the industrial commission.

In 1921, however, a radical change was made transferring this responsibility along with many others formerly belonging to the industrial commission to the department of industrial relations. The creation of this department and provision for its director and divisions may be found in Sections 154-3, 154-6 and 154-8 of the General Code. Following these sections the duties and powers of the department of industrial relations were given in Section 154-45 of the General Code. This section reads in part as follows:

“The department of industrial relations shall have all powers and perform all duties vested by law in the industrial commission of Ohio, excepting the following:

Those powers and duties of the commission which it exercises as successor of the state liability board of awards, the state board of arbitration, the board of boiler rules, and in the investigation, ascertainment and determination of standards, devices, safeguards, and means of protection, being all powers and duties mentioned in paragraphs 3 to 8, both inclusive, of Section 871-22 of the General Code. * * *”

Under this section the duties and powers conferred under Section 871-22 (9), *supra*, were given to the department of industrial relations. The authority to supervise and license private employment offices was expressly conferred in Section 871-22 (9), *supra*, and it can be seen that powers conferred under this section were among those transferred by Section 154-45, *supra*, to the department of industrial relations.

It was under the set up of this department that the Ohio State employment service was created. We come now to Section 1345-15 of the General Code which effects further change in transferring the Ohio state employment service from the department of industrial relations to the unemployment compensation commission. Section 1345-15 reads:

“The Ohio state employment service is hereby transferred to the commission as a *division thereof*, which shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this act for the purpose of performing such duties as are within the purview of the act of congress entitled ‘An act

to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes,' approved June 6, 1933 (48 Stat. 113; U. S. C., title 29, sec. 49 (2) (e), as amended. The said division *shall be administered by a full-time salaried director, . . .*

* * * * *

The *provisions of this section* and of Section 1345-16 of the General Code *shall take effect on January 1, 1938, and thereupon all records, files office equipment, supplies, and property of employment offices maintained, operated and/or supervised by the department of industrial relations, which are the property of the State of Ohio, shall be transferred to the unemployment compensation commission and the powers and duties enumerated in paragraph (9) of Section 871-22 * * * *, shall be transferred to and vested in the commission on January 1, 1938.*

The employees of such employment offices and employment service of the state shall be transferred at said time to the jurisdiction of the commission, and the status, classifications, grades, rates, and rights under the civil service laws of all such employees shall continue unchanged and unaffected by such transfer." (Italics the writer's.)

The section above quoted makes definite provisions for the transfer of the Ohio state employment service as a unit to the unemployment compensation commission as a division of the commission, and in so doing the responsibilities of this new division and its administration are to a great extent generally provided for. Under these provisions alone, all those powers and duties exercised by the Ohio state employment service would pass to the unemployment compensation commission, and such being the case, licensing and supervising of private employment offices, such duties being a part of the employment service, would come under the control of the unemployment compensation commission. The legislature, however, leaves no room for doubt or conjecture as to what was intended in this respect, for in the same section it expressly provides that the powers and duties enumerated in paragraph (9) of Section 871-22 (cited supra), shall be transferred to the unemployment compensation commission. This being so I am constrained to advise you in answer to your first question that by the express provisions of Section 1345-15, General Code, the authority to license and to supervise private employment offices is given to the unemployment compensation commission on January 1, 1938.

In your second question you ask whether the responsibility to license and supervise private employment offices is placed upon the Ohio state employment service as a division of the unemployment compensation commission as of January 1, 1938.

Section 1345-12 of the General Code provides for the unemployment compensation commission of Ohio and sets forth its organization and administrative authority. Section 1345-15, General Code, provides certain specific powers and duties of the commission to be exercised "in addition to all other duties imposed on the commission and powers granted under this act." Immediately following this section comes 1345-15, *supra*, which transfers the Ohio state employment service and makes it a division of the unemployment compensation commission. The only duty expressly provided for the new division in this section concerns the establishing of free public employment offices. However, in a separate clause of the section, other powers and duties enumerated in other sections of the Code, particularly Section 871-22 (9), are transferred to and vested in the commission on January 1, 1938. Further general authority to establish and provide for the administration of these powers given is contained in Section 1345-16 of the General Code, as follows:

"The commission shall establish two coordinate divisions; the Ohio state employment service division, created pursuant to Section 1345-15 and the unemployment compensation division. Each division shall be a separate administrative unit with respect to personnel, budget, and duties, except in so far as the commission may find that such separation is impracticable."

The language "The commission shall establish two coordinate divisions: the Ohio state employment service division, *created pursuant* to Section 1345-15 . . ." can mean but one thing and that is that the Ohio state employment service division shall be set up to include in it as a separate unit the authority and duties given the commission under Section 1345-15, *supra*. This being true, it is my opinion that the duty of licensing and supervising private employment offices as contained in Section 871-22 (9), *supra*, which was expressly transferred and authorized under Section 1345-15, *supra*, should come under the administration of the newly created Ohio state employment service division as organized and set up by the unemployment compensation commission on January 1, 1938.

Respectfully,

HERBERT S. DUFFY,
Attorney General.