

by the wholesale grocery company at its warehouse. Therefore, this opinion is based on that assumption.

In view of the foregoing, I am of the opinion that the wholesale grocery company, under the facts disclosed by you in your communication, must take out two wholesale cigarette licenses.

Respectfully,  
 GILBERT BETTMAN,  
*Attorney General.*

3743.

SOLDIERS' RELIEF COMMISSION—UNAUTHORIZED TO EMPLOY CLERKS, STENOGRAPHERS, INVESTIGATORS—EXCEPTION.

SYLLABUS:

1. *Where the duties of an individual member of a soldiers' relief commission are such as to require temporary stenographic or clerical assistance, the cost of the same may be included as an actual expense of such member and allowed by the county commissioners, but no authority exists by virtue of which a soldiers' relief commission may employ clerks and stenographers to assist it in the performance of its duties.*

2. *A soldiers' relief commission may not employ and compensate persons for making investigations of the applications for soldiers' relief.*

COLUMBUS, OHIO, November 9, 1931.

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

DEAR SIRs:—This will acknowledge receipt of your request for my opinion which reads:

"Section 2931 of the General Code provides for the organization of the Soldiers' Relief Commission, and for designating one of its number Secretary. Section 2932, G. C., provides that, on the presentation of an itemized statement thereof, county commissioners shall allow the persons composing the Soldiers' Relief Commission their actual expenses incurred in performing their duties, and a fair compensation for their services.

Question 1. May a Soldiers' Relief Commission, under these sections, employ clerks and stenographers to assist them in the performance of their official duties in any county other than a county containing a National Soldiers' Home?

Question 2. May the Soldiers' Relief Commission employ and compensate persons for making investigations of applications for relief in view of the provisions of Section 2937, G. C.?"

Section 2932, General Code, which is pertinent to your inquiry, reads as follows:

"On the presentation of an itemized statement thereof, the county commissioners shall allow the persons composing the soldiers' relief commission, their 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."

As was stated in the case of *State, ex rel., v. Menning*, 95 O. S. 97, at page 99:

"The legal principle is settled in this state that county commissioners, in their financial transactions, are invested only with limited powers, and that they represent the county only in such transactions as they may be expressly authorized so to do by statute. The authority to act in financial transactions must be clear and distinctly granted, and, if such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed upon the county."

It should be noted that the above quoted section allows the county commissioners to reimburse only the persons comprising the soldiers' relief commission for *their actual expenses* incurred in the performance of *their* duties, and a fair compensation for *their* services.

The repeated use of the word "their" in connection with the various expenditures to be made to the person comprising a soldiers' relief commission indicates that the expenses sought to be reimbursed must be incurred by such members of soldiers' relief commissions while in the discharge of their official duties, and would not authorize the payment of compensation by the county commissioners to others for performing the duties imposed upon the members of such commission.

When the legislature desires to authorize the employment of clerks, stenographers, etc., it does so in unmistakable language. See Sections 337, 353-1, 1496, 1520, 2410, 2981, 2987 et seq., of the General Code.

An examination of the sections relative to soldiers' relief commissions discloses no provision authorizing the employment of clerks and stenographers to assist the members of such commissions in the performance of their official duties.

That the legislature has recognized the desirability of the appointment of an assistant to such soldiers' relief commissions under certain conditions is evident from a reading of Section 2931, General Code, which is as follows:

"Such commissioners shall select one of their number president and one as secretary. In counties containing a national soldiers' home they may employ an assistant secretary and prescribe his duties and compensation. A judge of the court of common pleas may remove any member of the commission for cause, and shall fill vacancies occurring therein for the unexpired term."

If it were the intent of the legislature to allow the employment of an assistant by the soldiers' relief commission in the instant situation, it would have so provided.

While I am not unmindful of the fact that it has been held by this office in Opinions of the Attorney General, 1930, page 417, that the county commissioners may allow the secretary of a soldiers' relief commission reasonable compensation for services rendered in the performance of the duties of the commission, it should be noted that such secretary must be, by virtue of Section 2931, *supra*, a member of the commission.

It might well be that if the duties of an individual member, such as the secretary, required that stenographic or clerical assistance be obtained for a short period of time, the expense of such service may be returned by the county

commissioners as a part of the actual expenses of the member and the same be allowed.

In view of the foregoing and in answer to your first inquiry, I am of the opinion that no authority exists by virtue of which a soldiers' relief commission may employ clerks and stenographers to assist it in the performance of its duties.

Coming now to your second inquiry, Section 2937, General Code, to which you refer, reads:

"On the fourth Monday of November of each year and at such other times as may be necessary, the soldiers' relief commission shall meet at the office of the county commissioners, or in a suitable room furnished by the county for that purpose, and examine carefully the lists and statements of those reported by the township and ward soldiers' relief committees, and also all cases not included in such lists, who, before and during their session, have been recommended to the commission for aid under these provisions. If satisfied that those so recommended, or any of them are in need of assistance and are entitled thereto under these provisions, the commission shall fix the amount to be paid each month in each case to such person or family."

Under the provisions of Section 2934, General Code, the primary duty of receiving and examining all applications for relief under the provisions of the soldiers' relief sections is placed upon the township and ward soldiers' relief committees, who in turn submit the same to the county soldiers' relief commission for its consideration.

No provision is contained in Section 2937, General Code, above quoted, for the employment or compensation of persons for making investigation of applications for relief, nor does an examination of the statutes pertaining to this subject reveal any authority for such employment and payment.

Applying the principles set forth in the discussion had upon the first question presented by you, to the instant situation, I am of the opinion that a soldiers' relief commission may not employ and compensate persons for making investigations of the applications for soldiers' relief.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

3744.

APPROVAL, BONDS OF CITY OF BEDFORD, CUYAHOGA COUNTY,  
OHIO—\$31,500.00.

COLUMBUS, OHIO, November 10, 1931.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

3745.

APPROVAL, BONDS OF CITY OF STRUTHERS, MAHONING COUNTY,  
OHIO—\$10,000.00.

COLUMBUS, OHIO, November 10, 1931.

*Industrial Commission of Ohio, Columbus, Ohio.*