

1188.

RELIEF—LOCAL AUTHORITY—MAY APPOINT LOCAL RELIEF DIRECTOR AT AGREED SALARY—ONE DOLLAR PER YEAR—WHEN SUCH DIRECTOR RECEIVES COMPENSATION FROM ELEEMOSYNARY ASSOCIATION—NOT IN VIOLATION OF HOUSE BILL 675, 93RD GENERAL ASSEMBLY.

SYLLABUS:

1. *A local relief authority may, under Section 3391-7, General Code (H. B. 675) appoint a local relief director at an agreed salary of one dollar per year if agreed to by such director.*

2. *The fact that such local relief director receives additional compensation from an eleemosynary association as compensation for performing his official duties is not in violation of any language contained in House Bill 675 as enacted by the 93rd General Assembly.*

COLUMBUS, OHIO, September 13, 1939.

HON. MARVIN A. KELLY, *Prosecuting Attorney, Scioto County, Portsmouth, Ohio.*

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

“At the request of the local Relief Examiner for the Portsmouth Relief Area, I would like your opinion of the effect of the recently enacted Amended Substitute House Bill 675 in the following particulars:

Section 3, paragraph 9, sub-paragraph 3 of said act is as follows:

‘Local relief authorities shall not disburse any funds through any private organization.’

Section 7, paragraph 2 of said act provides that:

‘All expenses of administering poor relief by local relief authorities shall be paid out of poor relief funds. * * *’

The City of Portsmouth is administering its relief through a Relief Director, who is nominally employed by said city for \$1.00 a year, and the rest of her salary is paid by the local Bureau of Community Service which, of course, is a private organization.

The last quoted portion of Section 7 would indicate that such local relief director should be paid solely and entirely from the Poor Relief Funds of the city rather than receiving part of her compensation from this private organization—the Bureau of Community Service.

I would very much appreciate your early opinion in regard to the above.”

Your request for opinion may be otherwise stated:

May a person who is employed at a nominal salary by a local relief authority, receive other compensation from a charitable agency?

In my examination of the provisions of House Bill 675, now Sections 3391 and 3391-1 to 3391-13, inclusive, General Code, I find no statutory provision fixing the salary or compensation of the local relief director appointed pursuant to the authority of Section 3391-7, General Code. The only restrictions prescribed by the Legislature are:

1. He or she must not be related by consanguinity or affinity to the county auditor or county commissioners;
2. He or she may or may not have attended college;
3. He or she may or may not have studied social administration;
4. He or she may or may not have been formerly connected with a relief agency or organization.

In Section 3391-7, General Code, the legislature has granted the local relief authority the power to appoint a relief director. It has not fixed the salary to be paid such director. In fact, it has not provided that such director *must* be appointed. It has not provided that such director must be employed on a full time basis. Such considerations are apparently left to the discretion of the poor relief authority. I am unable to say that conditions do not now exist in certain local relief areas, and it is to be hoped that in the future conditions will be such that in most, if not all the local relief areas the entire time of a local relief director will not be consumed in the required duties of his office. If so, certainly the legislature did not intend to require a relief director to be employed on a full time basis and paid for his entire time and perform no useful functions.

I assume for the purposes of this opinion that the relief director was *sui juris*, and has the required legal capacity to enter into a binding contract of employment. If so, the employment contract in question is supported by a valuable consideration on the part of each of the parties. The relief authority has bound itself to pay the agreed compensation, the di-

rector to render his services in consideration of the payment of the agreed compensation. If the contract was fairly entered into by the parties, and is based upon a valuable consideration, the courts will not disturb themselves as to whether the compensation of one dollar per year is in excess of or less than is the reasonable value of the services to be rendered by the relief director. *Smith v. Worman*, 19 O. S., 145, 150; *Withers v. Ewing*, 40 O. S., 400, 408. The question as to the adequacy of the consideration to be paid for the service has been placed by the legislature in the discretion of the local authority. In the absence of a showing of an abuse of discretion by such authority, the court will be loth to disturb it.

In your request you infer that a private organization is paying the Director some salary. In your request you quote language from subparagraph 2, of Section 3391-6, General Code, to the effect that "*all expenses of administering poor relief by local relief authorities shall be paid from poor relief funds.*" The local relief authority is not the local relief director, but the proper officer or board of the city of Portsmouth. (See Section 3391-1, General Code.) The only expense that such authority may have with respect to the salary of the local relief director is that which such local relief authority agreed to pay for such services.

The powers and duties of the local relief director are not prescribed by statute. Such powers and duties must be prescribed by the local relief authority of the city.

Section 3391-7, General Code, reads in part:

"Each local relief authority may appoint a local relief director * * * and such additional authorities as it may deem necessary, and prescribe their duties and authority. * * *"

The manner of disbursing funds by a local relief authority is definitely fixed by statute. In the case of county local relief areas they are disbursed from the county treasury; in the case of city local relief areas, from the city treasury. (See section 3391-2, sub-section 9, first paragraph.) The language quoted in your letter is the last paragraph of such sub-section 9, and specifically prevents the moneys being disbursed through the medium of a private agency. However, there is nothing in such language that would inhibit a private agency from granting a gratuity to an employe of the local relief area when not granted as an inducement for rendering a service inconsistent with his official duties.

Specifically answering your inquiry it is my opinion that:

1. A local relief authority may under authority of Section 3391-7, General Code (House Bill 675), appoint a local relief director at an agreed salary of one dollar per year if agreed to by such director.
2. The fact that such local relief director receives additional compensation from an eleemosynary association as compensation for per-

forming his official duties is not in violation of any language contained in House Bill 675 as enacted by the 93rd General Assembly.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1189.

METROPOLITAN HOUSING AUTHORITY—MAY NOT EXPEND FUNDS: MEMBERSHIP FEES—ASSOCIATIONS SUCH AS NATIONAL ASSOCIATION ON HOUSING OFFICIALS—AMERICAN FEDERATION OF HOUSING AUTHORITIES.

SYLLABUS:

A Metropolitan Housing Authority may not expend its funds for the payment of membership fees in associations such as the "National Association of Housing Officials, or the "American Federation of Housing Authorities."

COLUMBUS, OHIO, September 13, 1939.

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

GENTLEMEN: I am in receipt of your request for my opinion, reading as follows:

"We are enclosing herewith a letter from our City of Columbus Examiner, together with one from the local Metropolitan Housing Authority and one from Mr. Nathan Straus, of the U. S. Housing Authority, which are largely self explanatory.

There are a number of such Housing Authorities in this State, and since the question here involved is applicable to all of them, may we request that you examine this correspondence and advise us in answer to the following question:

Ques. 1. Is the local Metropolitan Housing Authority now operating on the funds borrowed from the City of Columbus, authorized to expend the maximum amounts indicated by the Straus letter for the payment of 'dues' in associations such as the National Association of Housing Officials and the American Federation of Housing Authorities?"

Among the enclosures attached to your request is a letter from Nathan Straus, Administrator of the United States Housing Authority of the Federal Works Agency, which reads in part: