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- 1 MEETINGS — DEPARTMENT OF PUBLIC WELFARE — AUTHORIZED TO CALL MEETINGS FOR DESIGNATED PURPOSES, SECTIONS 1356, 1357 — EXPENSES OF INVITEES AUTHORIZED TO BE PAID FROM FUNDS APPROPRIATED TO DEPARTMENTS FROM WHICH INVITEES CALLED.
  
2. NO PROVISION OF GENERAL CODE TO AUTHORIZE DEPARTMENT OF PUBLIC WELFARE TO CALL OR ISSUE INVITATIONS TO ANNUAL MEETINGS OF STATE AND NATIONAL ORGANIZATIONS — NO AUTHORITY FOR COUNTIES TO PAY EXPENSES OF THOSE WHO ATTEND SUCH MEETINGS.

SYLLABUS:

1. Sections 1356 and 1357, General Code, authorize the Department of Public Welfare to call the meetings for the purposes therein designated and when such meetings are called by the Department of Public Welfare, authorize the payment of the expenses of the invitees to such meetings from funds appropriated for the payment of expenses of the departments from which the invitees are called.

2. The Department of Public Welfare is neither authorized by Sections 1356 and 1357, or other provisions of the General Code, to call or issue invitations to annual meetings of state and national organizations and thereby require or authorize counties to pay the expenses of those in attendance at such meetings.

Columbus, Ohio, May 2, 1944

Hon. Herbert R. Mooney, Director, Department of Public Welfare  
Columbus, Ohio

Dear Sir:

Your request for my opinion reads in part as follows:

“Section 1356, General Code, gives the department of Public Welfare authority to call an annual conference, to be known as the Ohio Welfare Conference, to facilitate discussions of welfare and social problems; and also the right to call ‘other conferences at any time or place for the consideration of problems relating to any particular group of institutions and agencies’.

Section 1357, General Code, provides that the necessary expenses of state, county and municipal officers and employes in attendance at the conferences provided for in Section 1356, upon the invitation of the Department of Public Welfare, shall be paid from any funds available for their respective offices, boards and institutions, upon their presenting a certificate showing that they were invited to and were in attendance at the sessions of such conferences. \* \* \*

The National Council of Juvenile Court Judges will hold its annual meeting in Cleveland next month, and I have been requested by the president of this national association to issue invitations to the judges of the juvenile courts of Ohio to attend this national conference, in order to enable the judges to return the proper certificate of attendance and make legal claim for reimbursement of their expenses. \* \* \*

May I have your opinion on the following question:

Do Sections 1356 and 1357, General Code, give the Department of Public Welfare authority to call, and issue invitations to, annual meetings of state and national organizations such as the Ohio Probate and Juvenile Judges Association, the National Council of Juvenile Court Judges, and the National Probation Association, and thereby require the counties to pay the expenses of those in attendance; or does Section 2989-1, General Code, govern the payment of expenses of persons in attendance at association meetings such as here listed?

I am giving you copies of recent correspondence between one of our juvenile judges and this department on this subject.”

The inclosure referred to as accompanying your request reads as follows:

“The National Council of Juvenile Court Judges will be holding its annual meeting at Cleveland commencing May 17th. The National Probation Association is meeting from the 19th to the 23rd, also at Cleveland. The latter sessions of the Judges will be held jointly with the NPA.

These will be conferences ‘at which juvenile or welfare problems are discussed’, so that they clearly fall within Section 1639-57, General Code, which provides for appropriations to include ‘the reasonable expenses of the judge and probation officers in attending’ such conferences.

The purpose of this letter is to request you to issue the necessary invitation to the Juvenile Court Judges of Ohio to attend these National conferences at Cleveland as you do each year in respect to our annual January meetings in Columbus. This will enable the judges to return the proper certificate of attendance and make proper legal claim for reimbursement of their expenses. All members of the Ohio Association of Juvenile Judges are also members of the National Council.”

Since you are a public officer holding an office created by statute it is elemental that you have such powers and such only as are either expressly granted to you by the statute which created your office or such as are necessarily implied for the purpose of enabling you to perform the duties specifically enjoined on you by reason of such statutes. Such being true, we must examine the statutes creating your office with the view to determining whether you have power to perform the act concerning which you inquire.

Section 1356, General Code, authorizes you, as successor of the Board of State Charities, to call an annual conference and lesser conferences of social agencies. Such section provides:

“The board of state charities may call an annual conference, of the officials specified in section 1357 and representatives of the various social agencies in the state, to be known as the Ohio welfare conference. The purpose of the conference shall be to facilitate discussion of the problems and methods of practical human improvement, to increase the efficiency of agencies and institutions devoted to this cause; to disseminate information and to consider such other subjects of general social importance as may be determined upon by the conference itself. For this purpose the conference shall organize by the election of officers, the appointment of the proper committees, and the adoption of rules and regulations. The board may also call other conferences at any time or place for the consideration

of problems relating to any particular group of institutions and agencies.”

When such a conference shall have been called by you, the expenses of the attendants are to be paid as provided in Section 1357 of the General Code. Such section reads:

“The necessary expenses of such officers and employes of the state, county and municipal boards, benevolent and correctional institutions, officials responsible for the administration of public funds used for the relief and maintenance of the poor, officials authorized to administer the probation laws, and members of the boards of county visitors as are invited by the board of state charities to the conferences provided for in section 1356 shall be paid from any fund available for their respective offices, boards and institutions, provided they first procure a certificate from the secretary of the board of state charities as evidence that they were invited to and were in attendance at the sessions of such conferences.”

You will observe that Section 1356 of the General Code authorizes you to call “an annual conference” of state and local officials administering public funds for the relief of the poor, officials administering probation laws and members of boards of county visitors. Such section also authorizes you to call conferences of a lesser number of officials at various times for “the consideration of problems relating to any particular group of institutions and agencies”. It is apparent, from the expressed purpose of “the annual conference” which you are authorized by Section 1356, General Code, to call, that a call for juvenile judges only to attend a national conference of juvenile court judges does not come within such stated purpose.

In the letter accompanying your request from one of the juvenile court judges it is pointed out that two conventions are to be held consecutively in Cleveland during the month of May, 1944; one, The National Conference of Juvenile Court Judges commencing on May 17, 1944 and the later convention of The National Probation Association which commences on May 19, 1944. I am unable to find in the Ohio statutes any authority for you to call or direct any persons to attend either of such conventions.

I am not unmindful of the opinion of one of my predecessors, being Opinion No. 596, reported in Opinions of the Attorney General for the

year 1927, Vol. II, page 1012, in which the then Attorney General held:

“1. Under the provisions, upon the conditions and within the limitations prescribed in Sections 1356 and 1357 of the General Code, the various officers and employees attending the National Conference of Social Workers at Cleveland May 26th to June 2nd, 1926, may be legally paid their necessary expenses in attending said conference.

2. Under the provisions, upon the conditions and within the limitations prescribed in Section 3087 General Code, the trustees and superintendents of children’s homes may legally be allowed their necessary expenses in attending the National Conference of Social Workers held at Cleveland, Ohio, May 26th to June 2nd, 1926.”

In such opinion it would seem that my predecessor in office extended the meaning of the sections above quoted beyond their literal meaning. Section 1356, in terms, authorizes you to call conferences, not to direct the payment of expenses of welfare officials and employes when attending conferences not called by you. From your letter and the inclosures therewith, it does not appear that you, in your official capacity, called the meeting of the National Council of Juvenile Court Judges, nor did you call the meeting of The National Probation Association. It would, therefore, appear that there is no express grant of authority to you to authorize the payment of the expenses of probate judges in attending either of such conventions.

It may well be that under authority of Section 2989-1 of the General Code the county commissioners might authorize the expenditure of public funds for the payment of expenses of county officers, deputies and employes at such meetings. Such section reads:

“Except as otherwise provided by law, no elected county officer, deputy or employe of the county, shall attend, at county expense, any association meeting, or convention, unless authorized by the board of county commissioners. Before such allowance may be made, the head of the county office desiring such allowance, shall make application in writing to the board of county commissioners showing the necessity of such attendance and the probable costs to the county. If a majority of the members of the board of county commissioners approve the application, such expenses shall be paid from the moneys appropriated to the said office for traveling expenses.”

As I have above pointed out, your powers are limited to those

expressly granted to you or as are necessarily inferred from the statutes creating and defining the limitations of your duties. In addition, it is a well established rule of law applicable to the construction of statutes that statutes authorizing the expenditures of public money are to be strictly construed and that any doubt as to the meaning of a statute authorizing the expenditure of funds is to be resolved against the payment of moneys from the treasury. State, ex rel. Locher, Prosecuting Attorney v. Manning, 95 O. S. 97, 99; Jones, Auditor v. Commissioners, 57 O. S. 189.

I do not intend to imply that under authority of Section 1356, General Code, you do not have the authority to call a conference of officers, deputies and employes during the same time and at the same city and place in which such national meetings are being held. I do mean, however, to state that in my opinion you are not authorized by Sections 1356 and 1357, General Code to authorize expense vouchers for attendance at any meetings other than those called by yourself for the purposes mentioned in Sections 1356 and 1357, General Code, and then only when you can certify that attendance at such meeting called by you has been made.

Prior to the amendments of Sections 1356 and 1357, General Code, in 108 O. L., (Pt. 1) 427 it was only at meetings "held" by the State Board of Charities for the purposes of considering in detail the methods of managing public benevolent and correctional institutions and plans for administering poor relief that the State Board of Charities was authorized to approve expense vouchers. In 108 O. L. (Pt. 1) 427, the purpose of the annual conferece authorized to be called was designated therein as follows:

"\* \* \* The purpose of the conference shall be to facilitate discussion of the problems and methods of practical human improvements, to increase the efficiency of agencies and institutions devoted to this cause; to disseminate information and to consider such other subjects of general social importance as may be determined upon by the conference itself. \* \* \*"

You will observe that your authority to call additional conferences is limited as to purpose and each such conference must be "for the consideration of problems relating to *any particular group of institutions and agencies*". From the correspondence accompanying your request, it

is apparent that the conference for which you are requested to issue a call is not for the consideration of problems of any particular group of institutions or agencies, but is rather for a purpose similar to that authorized to be considered at the annual conference to which all the officers, deputies and employes mentioned in Section 1357, General Code, may be called to attend and is not limited to purely juvenile court judges.

Since you are not officially concerned with the proposition of the power of boards of county commissioners to authorize the expenditure of public funds under the power granted them in Section 2989-1, General Code, I express no opinion herein with respect to such question.

Specifically answering your inquiry, it is my opinion that:

1. Sections 1356 and 1357, General Code, authorize the Department of Public Welfare to call the meetings for the purposes therein designated and when such meetings are called by the Department of Public Welfare, authorize the payment of the expenses of the invitees to such meetings from funds appropriated for the payment of expenses of the departments from which the invitees are called.

2. The Department of Public Welfare is neither authorized by Sections 1356 and 1357, or other provisions of the General Code, to call or issue invitations to annual meetings of state and national organizations and thereby require or authorize counties to pay the expenses of those in attendance at such meetings.

Respectfully,

THOMAS J. HERBERT

Attorney General