

3203.

UNEMPLOYMENT RELIEF STUDY COMMISSION—MEMBERS—TRAVELING EXPENSES—NOT LIMITED TO FOUR DOLLARS PER DAY WHERE NECESSARY TO INCUR EXPENSES IN EXCESS OF SUCH AMOUNT—APPROPRIATION—AMENDED SENATE BILL NO. 478.

SYLLABUS:

Members of the Unemployment Relief Study Commission created by Amended Senate Bill No. 478 of the 92nd General Assembly, special session, are not limited to four dollars per day traveling expenses in cases where it is necessary to incur expenses in excess of such amount within appropriations made to such commission.

COLUMBUS, OHIO, November 10, 1938.

HON. WILLIAM M. BOYD, *Chairman, Unemployment Relief Study Commission, Columbus, Ohio.*

DEAR SIR: YOUR letter of recent date is as follows:

"The sum of \$10,000.00 has been appropriated by the General Assembly to the Unemployment Relief Study Commission for expenditures.

According to Ray T. Allison's rulings, \$4.00 a day is allowed, including meals and hotel. This is not an adequate amount in as much as hotel rooms are very expensive.

Since the General Assembly appropriated the money to take care of the expenses, the members of the Commission feel that Mr. Allison does not have jurisdiction over the amount to be allowed them for expenditure, but that this matter should be regulated by the chairman. Mr. Allison has authority over State employees, but the consensus of opinion is that the Commission would not be under his jurisdiction.

We would like a ruling on this matter. An early reply is urgent and would be appreciated."

Amended Senate Bill No. 478 of the 92nd General Assembly, special session, creating your Commission is an act "To provide for the appointment of a commission to investigate the problem of financing and administering unemployment relief in Ohio and to report with recommendations for proper and effective legislation therefor."

It is unnecessary to quote the provisions of this act, but it should be observed that the functions of your Commission are essentially legislative, your Commission being obviously created as an instrumentality of the General Assembly in the performance of its legislative functions. See Opinion No. 3171, rendered to you November 1, 1938.

The order of the Department of Finance regulating the amount which may be allowed for traveling expenses by employes of the various departments, offices and institutions of the state has undoubtedly been promulgated pursuant to the authority vested in that department by Section 154-28, General Code, which section reads in so far as is pertinent as follows:

“The department of finance shall have power to exercise control over the financial transactions of all departments, offices and institutions, excepting the judicial and legislative departments, as follows:

* * * * *

(4) By requiring orders, invoices, claims, vouchers or payrolls to be submitted to the department, where such submission is prescribed by law or where the governor shall deem such submission necessary, and by approving or disapproving such orders, invoices, claims, vouchers or payrolls.

(5) By supervising and examining accounts, the expenditures and receipts of public money and the disposition and use of public property, in connection with the administration of the state budget.”

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As hereinabove indicated, your Commission, being a temporary commission whose powers and functions expire December 31 of this year, is unmistakably an instrumentality of the General Assembly. It is unnecessary, however, to determine the question of whether your Commission may be construed as being included in the phrase “legislative department” as used in the first paragraph of Section 154-28, supra—this in view of my holding in Opinion No. 2301, rendered April 13, 1938, to the State Racing Commission, which in my judgment is dispositive of your question. The syllabus of such opinion reads as follows:

“Inasmuch as Section 1079-2, General Code, authorizes the allowance for the members and secretary of the Racing Commission of ‘actual and necessary traveling expenses,’

the Department of Finance does not have power to set up an arbitrary maximum amount for traveling expenses. The functions of the Department of Finance in connection with vouchers submitted or to be submitted for traveling expenses are those of accounting and auditing and the Department of Finance has no power to refuse to approve a voucher unless it finds that the expenditure was or would be illegal."

Specifically answering your question, it is my opinion that members of the Unemployment Relief Study Commission created by Amended Senate Bill No. 478 of the 92nd General Assembly, special session, are not limited to four dollars per day traveling expenses in cases where it is necessary to incur expenses in excess of such amount within appropriations made to such commission.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

3204.

STATUS — RENTAL AGREEMENT, STATE OF OHIO, THROUGH DIRECTOR, DEPARTMENT OF PUBLIC WORKS, WITH THE NORTHERN OHIO TELEPHONE COMPANY, BELLEVUE, OHIO, SECOND FLOOR, ROOMS 107 AND 108, 2 SOUTH HESTER STREET, NORWALK, OHIO, USE, OHIO UNEMPLOYMENT COMPENSATION COMMISSION, MONTHLY RENTAL \$65.00.

COLUMBUS, OHIO, November 12, 1938.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a so-called rental agreement executed by the Northern Ohio Telephone Company, of Bellevue, Ohio, in and by which there is rented to the State of Ohio, acting through you as Director of Public Works under the authority conferred upon you by Section 154-40, General Code, certain office space for the use of the Ohio Unemployment Compensation Commission in the City of Norwalk, Huron County, Ohio, which premises so rented are described as follows:

Second floor space known as Rooms 107 and 108 at 2 South Hester Street in Norwalk, Ohio, containing approximately 940 square feet.