

whether or not the holding of the office of county auditor in the instant case would interfere with the proper performance of the auditor's duties as postmaster. This is of course a question that must be answered by the proper federal authorities, and it is accordingly improper for the Attorney General to render an opinion thereon. It is believed that a more specific answer to your question may not be given.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

2653.

WORKMEN'S COMPENSATION LAW—UNDER H. B. 110 2ND  
 SPECIAL SESSION OF 90TH GENERAL ASSEMBLY INDUSTRIAL  
 COMMISSION EMPOWERED TO APPOINT EMPLOYEES TO AD-  
 MINISTER SAID LAW.

*SYLLABUS:*

1. *On May 15th, 1934, the Industrial Commission of Ohio will have power to appoint all the necessary employees as provided for in House Bill No. 110 of the Second Special Session of the 90th General Assembly, subject to the provisions of the Civil Service Law of the State of Ohio, as it may find necessary to carry on the work of administering the Workmen's Compensation Law.*

2. *The employees now in the employ of the Department of Industrial Relations will remain employees of that department so long as it has use for their services.*

3. *There is no provision in said House Bill No. 110 whereby any of the present employees of the Department of Industrial Relations are to be transferred to the Industrial Commission of Ohio.*

COLUMBUS, OHIO, May 11, 1934.

*The Industrial Commission of Ohio, Columbus, Ohio.*

DEAR SIRS:—This will acknowledge receipt of your request for my opinion which reads as follows:

"We wish to call your attention to House Bill No. 110, recently enacted by the Legislature, conferring new duties upon The Industrial Commission of Ohio, especially that part of the bill referring to the appointment of employes upon the taking effect of this Act.

"We should like your opinion as to whether or not the Industrial Commission has power, upon the taking effect of this Act, to appoint all the employes which it deems necessary to administer the Workmen's Compensation Law, or do the present employes of the Department of Industrial Relations, who have been serving in the Division of Workmen's Compensation, retain their positions under the Industrial Commission after the taking effect of the said Act."

This inquiry leads us to a consideration of the amendment to Section 154-45, General Code, which amendment is contained in House Bill No. 110 of the Second Special Session of the 90th General Assembly referred to in your request.

Said section is a part of the Reorganization Code enacted by the General Assembly in 1921. At that time the Department of Industrial Relations was created and it was then provided in said section that all clerical, inspection and other agencies necessary for the execution of the powers of the Industrial Commission in administering the Workmen's Compensation Law, except the powers of the members of the Industrial Commission themselves, be placed in the Department of Industrial Relations. The section also provides that the employees in such positions were thereafter to be employees of the Department of Industrial Relations.

In the Act before us for consideration, the section is amended and the provisions above mentioned are omitted therefrom and in lieu thereof there is substituted in part the following:

"The industrial commission of Ohio shall have full power and authority to administer the workmen's compensation law, including the maintenance of the state insurance and occupational disease funds, and making disbursements therefrom; to perform all duties in connection therewith; to provide facilities, equipment and supplies; to employ and appoint when this act takes effect, and from time to time thereafter, such employees, including deputies, referees, supervisors, secretaries, medical examiners, physicians, auditors, actuaries, inspectors, investigators, examiners, clerks, stenographers and office help, as the industrial commission may deem necessary to carry on the work; to completely control all agencies and employees devoted to such administration and to make all arrangements in reference to the work. The employees shall be the employees of the industrial commission and shall exercise all of the authority conferred upon them by law and perform the duties assigned to them by the commission.

"The industrial commission shall have the sole power to select, appoint, prescribe the duties of, control, promote, supervise and remove said employees and fix their salaries or compensation."

It is to be noted that this change imposes upon the Industrial Commission of Ohio the duty of continuing the administration of the Workmen's Compensation Law, and to provide facilities, equipment and supplies, and "when this act takes effect, and from time to time thereafter," appoint employees, many of whom are specifically mention in the Act, "as the industrial commission may deem necessary to carry on the work;".

There is also imposed upon the Industrial Commission the duty to control all these agencies and employees, which employees the Act further provides shall be employees of the Industrial Commission.

This opinion is limited solely to employees filling positions which have been or will be created by administrative action as distinguished from positions actually created by statute. I find no statutory positions existing at this time referring to the administration of the Workmen's Compensation Law and none have been created by the amendment before me for consideration.

These powers are to vest in the Industrial Commission of Ohio on May 15th of this year.

We have, therefore, at the present time a number of employees in the employ of the Department of Industrial Relations performing duties which will no longer be performed by the department after May 15th. These employees still are and will remain employees of the Department of Industrial Relations until that department has no more work for them to do. They are under the control of that department and may be used by the department, subject to the provisions of the Civil Service Law of the State of Ohio, in any position the duties of which the department may have to perform.

There is no provision found in said House Bill No. 110 to the effect that these employees shall be transferred to or become employees of the Industrial Commission of Ohio by virtue of the transfer of the duties.

On and after May 15th, 1934, the Industrial Commission will have duties to perform and will need employees to assist it in executing and administering the compensation law.

The Act before us provides that:

“The industrial commission shall have the sole power to select, appoint, prescribe the duties of,”

such employees.

The Act also says that this shall be done by the Commission “when this act takes effect, and from time to time thereafter”.

Of course, these appointments will be made by the Industrial Commission in accordance with the provisions of the Civil Service Law of the State of Ohio.

Your inquiry only requires a construction of said House Bill No. 110 in order to determine the legislative intent. In the case of *Slingluff vs. Weaver*, 66 O. S. 621, the Supreme Court of Ohio held, as disclosed by the second branch of the syllabus, that:

“But the intent of the law-makers is to be sought first of all in the language employed, and if the words be free from ambiguity and doubt, and express plainly, clearly and distinctly, the sense of the law-making body, there is no occasion to resort to other means of interpretation. The question is not what did the general assembly intend to enact, but what is the meaning of that which it did enact. That body should be held to mean what it has plainly expressed, and hence no room is left for construction.”

And again in the fourth branch of the syllabus of the case of *Cochrel vs. Robinson*, 112 O. S. 526, the Supreme Court says on this subject:

“In the construction of a statute the primary duty of the court is to give effect to the intention of the Legislature enacting it. Such intention is to be sought in the language employed and the apparent purpose to be subserved, and such a construction adopted which permits the statute and its various parts to be construed as a whole and give effect to the paramount object to be attained.”

This rule is recognized by all courts and all authorities as being the guiding star in the interpretation of statutes. Applying that rule to the question before us, we find the definite language of the Legislature that the Industrial Commission has the sole power to select the employees necessary to assist it in the administration of the Workmen's Compensation Law, and that this power shall be exercised "when this act takes effect, and from time to time thereafter".

At no place in the Act, as contained in House Bill No. 110, do we find language which would tend to indicate that the Legislature intended that any of the present employees of the Department of Industrial Relations should be transferred to and become employees of the Industrial Commission of Ohio. As above stated, when the Industrial Commission is making the appointments provided for, they must be made in compliance with the provisions of the Civil Service Law of Ohio because nowhere in said Act can we find any language indicating that the Civil Service Law may be ignored, nor is any intent expressed therein that any provision of said law would be repealed.

The present employees of the Department of Industrial Relations will remain in the employ of that department so long as their services are required to carry out the remaining duties of that department.

Therefore, in specific answer to your inquiry, it is my opinion that

1. On May 16th, 1934, the Industrial Commission of Ohio will have power to appoint all the necessary employees as provided for in House Bill No. 110 of the Second Special Session of the 90th General Assembly, subject to the provisions of the Civil Service Law of the State of Ohio, as it may find necessary to carry on the work of administering the Workmen's Compensation Law.

2. The employees now in the employ of the Department of Industrial Relations will remain employees of that department so long as it has use for their services.

3. There is no provision in said House Bill No. 110 whereby any of the present employees of the Department of Industrial Relations are to be transferred to the Industrial Commission of Ohio.

Very truly yours,

JOHN W. BRICKER,

*Attorney General.*

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2654.

COUNTY HOME—SUPERINTENDENT AUTHORIZED TO EMPLOY OR DISCHARGE EMPLOYEES—COUNTY COMMISSIONERS MAY FIX WAGES.

*SYLLABUS:*

1. *It is not within the power of the board of county commissioners to provide by rule that the superintendent of the county home shall not employ or discharge the employes without the consent of the county commissioners. The statute reposes in the superintendent of the county home power to employ such labor from time to time as may be needed.*