

**Note from the Attorney General's Office:**

1948 Op. Att'y Gen. No. 48-3435 was overruled in part  
by 1991 Op. Att'y Gen. No. 91-008.

3435

1. SOLDIERS' RELIEF COMMISSION—MAINTENANCE AND OPERATION—COUNTY COMMISSIONERS REQUIRED TO SET FORTH AMOUNTS APPROPRIATED FOR EACH OFFICE AND DIVISION UNDER CONTROL OF COMMISSION—AMOUNT APPROPRIATED FOR PERSONAL SERVICE—SECTION 5625-29 G. C.
2. COUNTY COMMISSIONERS WITHOUT AUTHORITY TO REDUCE OR CHANGE SALARIES OF OFFICERS AND EMPLOYEES FIXED BY SOLDIERS' RELIEF COMMISSION—REQUIRED TO APPROPRIATE FULL AMOUNT REQUESTED—SHALL NOT EXCEED FIVE-TENTHS OF MILL PER DOLLAR OF ASSESSED VALUE OF TAXABLE PROPERTY OF COUNTY—SECTION 2936 G. C.

## SYLLABUS:

1. Under the provisions of Section 5625-29, General Code, county commissioners are required in making the appropriation of the funds for the maintenance and operation of the soldiers' relief commission to set forth the amounts appropriated for each office and division under the control of such commission, and within each, the amount appropriated for personal service.

2. In making such appropriation for personal service, the county commissioners are without authority to reduce or change the salaries of officers and employes as fixed by the soldiers' relief commission and are required under the provisions of Section 2936, General Code, to appropriate for such commission the full amount requested by it, not to exceed five-tenths of a mill per dollar of the assessed value of the taxable property of the county.

Columbus, Ohio, July 20, 1948

Bureau of Inspection and Supervision of Public Offices  
Columbus, Ohio

Gentlemen:

I have before me your letter, in which you request my opinion on certain matters relative to the soldiers' relief commission. Your communication reads as follows:

“Section 2933-1, General Code, authorizes the Soldiers' Relief Commission to employ investigators and clerks deemed necessary, to establish their compensation, which shall be paid from the county allotment of Soldiers' Relief funds.

“Section 2933-3, General Code, authorizes the Soldiers’ Relief Commission to employ a county veterans’ service officer, and sets forth such service officer’s duties. They are also authorized to employ clerks, stenographers and other personnel to assist the service officer in the performance of his duties, and to fix the compensation of such employes. This section further provides that the compensation of the service officer and of any employes, and any expenses under this section, shall be paid out of funds appropriated to the Soldiers’ Relief Commission as provided for in Section 2936, General Code.

“Section 2936, General Code, in part, provides that after the Soldiers’ Relief Commission has determined the probable amount necessary for relief purposes, the Commission shall certify it to the county commissioners who, at their June session, shall make the levy necessary to raise the required relief, not to exceed five-tenths of a mill per dollar on the assessed value of the property of the county hereinafter authorized.

“With the adoption of the Uniform Budget Law, the levy provided for in the above section is now included in the county’s general levy for current operating expenses, and the appropriations are made by the county commissioners from the general fund for such purposes.

“Section 5625-29, General Code, provides in part as follows :

‘Appropriation measures shall be so classified as separately to set forth the amounts appropriated for each officer, department and division and within each, the amount appropriated for personal services.’

“May we respectfully request your opinion upon the following questions :

“1. Granting that under the provisions of Section 2936, G. C., and within the limitations of said section, it is mandatory that the county commissioners appropriate the sum requested by the Soldiers’ Relief Commission, is it not the duty of the county commissioners to divide such amount into (1) appropriation for personal service—salary of service officer, investigators and clerks; (2) other expenses; (3) relief for soldiers, etc.?”

“2. In making such appropriations for personal service, is it mandatory that the county commissioners appropriate the amounts of the salaries of the employes as fixed by the Soldiers’ Relief Commission, or do the county commissioners have authority to control the amount to be expended for personal service, and the Soldiers’ Relief Commission, in the fixing of the salaries, must fix same within the amount as appropriated by the county commissioners?”

1. Your first question as to the form of the appropriation by the county commissioners, appears to be answered quite definitely by Section 5625-29, General Code, from which you have quoted. Compliance with its provisions would require that in making the appropriation for the work of the Soldiers' Relief Commission, the amount appropriated should be divided as stated in the statute. This would appear to involve an item for relief proper, one for the compensation of the investigators and clerks, one for the compensation of the service director and his assistants, one for the compensation allowed the commissioners, and a further item for miscellaneous expenses.

2. Section 2933-1, General Code, to which you refer, provides as follows:

“The soldiers' relief commission is hereby empowered to employ such investigators and clerks as may be necessary to carry on relief work when the necessity arises. \* \* \* Their compensation shall be such as established by the soldiers' relief commission, and shall be paid from the county allotment of soldiers' relief funds.”

Section 2933-3, General Code, authorizes the employment of a “county veterans' service officer” and necessary assistants, whose duty it is to advise and assist soldiers, etc., in obtaining rights and benefits under laws of the state or the United States. This section provides in part as follows:

“The compensation of the service officer and of any employee and any expenses, under this section shall be paid out of funds appropriated to the soldiers' relief commission, as provided for in section 2936 of the General Code of Ohio.”

Section 2936, General Code, which was in force in its present form a great many years before the sections above referred to were enacted, requires the commission to meet on the last Monday in May in each year, to determine from lists which have been furnished it what applicants for relief are entitled thereto, and the amount necessary for such purpose. The section concludes as follows:

“After determining the probable amount necessary for such purpose, the commission shall certify it to the county commissioners, who, at their June session shall make the levy necessary to raise the required relief, not to exceed five-tenths of a mill per dollar on the assessed value of the property of the county hereinafter authorized.”

This section, according to its wording, would seem to have reference only to the amount necessary for the purpose of affording relief to indigents, and would not appear to include provision for the compensation of the service officer and his assistants, whose duties do not relate to relief in the usual sense of the word, but rather to securing for veterans their civil rights. However, as will be noted from the quotation which I have given from Section 2933-3, the compensation of the service officer and other employes, and expenses incident to this service, are to be paid out of funds appropriated to the soldiers' relief commission under the provisions of Section 2936. Accordingly, we may consider that that section has been broadened in its scope so as to include all matters which are placed within the jurisdiction of the soldiers' relief commission.

The language of Section 2936 supra, leaves no discretion to the county commissioners but makes it clear that they are required to make the levy necessary to raise the amount which the commission has certified as necessary, not, however to exceed five-tenths of a mill per dollar, of the assessed value of the taxable property of the county.

Section 5625-5 of the General Code, relates to the general levy for current expenses and provides in part as follows:

"Without prejudice to the generality of the authority to levy a general tax for any current expense, such general levy shall include the amounts certified to be necessary for the payment of final judgments, the amounts necessary for general, special and primary elections; for boards and commissioners of health, and other special or district appropriating authorities deriving their revenue in whole or part from the subdivision; \* \* \* in the case of counties for the maintenance, operation and repair of public buildings, for the relief and support of the poor, for the relief of needy blind, *for the relief of honorably discharged soldiers, indigent soldiers, sailors and marines*, for mothers' pension fund and for the county's share of the compensation to be paid judges;  
\* \* \*"  
(Emphasis added.)

It will be noted here that provision for relief of honorably discharged soldiers, etc. is one of the items which are required to be included in the levy of the general tax. While this section and Section 2936 were both in effect in their present reading, an opinion was rendered by one of my predecessors, found in 1930 Opinions of the Attorney General, page 1149. The syllabus of that opinion is as follows:

"1. The board of county commissioners is required, under the provisions of Section 5625-5, General Code, to include in the general levy, the amount which the soldiers' relief commission has, under Section 2936, General Code, certified to it as necessary for soldiers' relief, providing such amount does not require a levy in excess of one-half mill.

"2. The budget commission may not reduce the amount certified to be necessary for soldiers' relief unless such amount should require a levy in excess of the one-half mill limitation set forth in Section 2936, General Code.

"3. It is the mandatory duty of the county commissioners to appropriate the amount appearing in the budget for soldiers' relief."

In the course of that opinion it was said:

"Under the provisions of Section 5625-5, supra, as now in force and effect, the county commissioners shall include in the general levy 'the amount certified to be necessary' for soldiers' relief. While these moneys are no longer required to be placed in a special fund as heretofore, the legislature has placed the amount certified to be necessary for soldiers' relief in the same category as the amount certified to be necessary for the payment of final judgments, the county's share of the compensation to be paid judges, etc. *There is no authority vested in the commissioners to reduce the amount certified to it as necessary for a specific purpose by a commission charged with the duty of effectuating such purpose, providing such amounts do not exceed whatever limitation is placed upon them by law.* Section 5625-5, supra, expressly provides that such amounts shall be included."  
(Emphasis added.)

The above opinion was confirmed and quoted from at considerable length in a later opinion found in 1935 Opinions of the Attorney General, page 382. This would appear to answer your second question. I find no provision in the law making it the duty or placing it within the power of the county commissioners to fix the salaries of any of the employes of the commission or to change the amount that may have been fixed by the commission.

Accordingly, it is my opinion and you are advised:

1. Under the provisions of Section 5625-29, General Code, county commissioners are required in making the appropriation of the funds for the maintenance and operation of the soldiers' relief commission to set

forth the amounts appropriated for each office and division under the control of such commission, and within each, the amount appropriated for personal service.

2. In making such appropriation for personal service, the county commissioners are without authority to reduce or change the salaries of officers and employes as fixed by the soldiers' relief commission, and are required under the provisions of Section 2936, General Code, to appropriate for such commission the full amount requested by it, not to exceed five-tenths of a mill per dollar of the assessed value of the taxable property of the county.

Respectfully,

HUGH S. JENKINS,  
Attorney General.