

"If the sheriff or coroner fails to give a bond within the time required by law or fails to give additional sureties thereon or a new bond within ten days after he has received written notice that the county commissioners so require, the commissioners shall declare the office of such sheriff or coroner vacant. Thereupon such office shall be filled as provided by law."

Section 9573-1, General Code, provides:

"The premium of any duly licensed surety company on the bond of any public officer, deputy or employe shall be allowed and paid by the state, county, township, municipality or other subdivision or board of education of which such person so giving such bond is such officer, deputy or employe."

The sections hereinbefore mentioned expressly authorize the county commissioners to accept a surety bond by a "surety company authorized to do business in this state." For the purpose of this opinion, it will be assumed that the company under consideration was authorized to do business in this state at the time of the execution of the bond. Clearly, the county commissioners would be justified in approving the bond upon which the company authorized to do business in the state appears as surety. However, in view of the status of the surety company, it has developed that the commissioners unintentionally, of course, made a bad bargain. Under the circumstances, the county may do only that which an individual might do under similar circumstances, that is, the county may present its claim for the unearned premium which the company has received. By reason of the provisions of law it becomes the duty of the county commissioners under such circumstances, to require a new bond, and the statutes expressly authorize the payment of the same out of public funds. The fact that a former bond had been executed and paid for would not seem in any manner to control the action of the commissioners in requiring a bond and paying for it at this time.

In specific answer to your inquiry, it is my opinion that under the circumstances being considered, the sheriff should be required to give a new bond, and the premium therefor, if a surety bond is given, shall be allowed and paid by the county.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2949.

SOLDIERS' RELIEF COMMISSION—WHAT EXPENSES THE MEMBERS THEREOF MAY RECEIVE.

SYLLABUS:

Members of a soldiers' relief commission are entitled to their actual expenses incurred in connection with the organization of township and ward committees within their county and also such necessary expenses as are actually incurred in connection with the investigation of any or all cases of indigent persons entitled to soldiers' relief.

COLUMBUS, OHIO, February 16, 1931.

HON. ORVILLE WEAR, *Prosecuting Attorney, Springfield, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“The Soldiers’ Relief Commission of Clark County has requested this office to secure from you an opinion relative to Section 2933 of the General Code of Ohio.

They desire to know whether or not the County Commissioners must pay a reasonable expense of organizing Township Committees for Soldiers’ Relief under said section. I have given the committee my opinion in the affirmative but they desire that I secure for them an opinion from your office.

It appears that the Soldiers’ Relief Commission of Clark County is attempting to make a survey as to the merits of the relief requested, and they desire to know whether or not such survey and investigation fall within the duties of the Soldiers’ Relief Commission so that it might be included in the necessary expense of that organization.”

Provision for the payment of the expenses of soldiers’ relief commissions is contained in Section 2932, General Code, as follows:

“On the presentation of an itemized statement thereof, the county commissioners shall allow the persons composing the soldiers’ relief commission, their actual expenses incurred in the performance of their duties, and a fair compensation for their services. The county auditor shall issue his warrant upon the county treasurer for the amount so allowed.”

In view of the foregoing section, the question resolves itself into whether or not actual expenses incurred in organizing township committees and in making a survey and investigation as to the merits of applications filed for relief, are expenses incurred in the performance of the duties of the members of the soldiers’ relief commission. In other words, is it the duty of the soldiers’ relief commission to organize township committees and investigate the merits of applications for relief? If answer to these questions is in the affirmative, then your inquiry must be answered in the affirmative.

Section 2933, General Code, provides that the soldiers’ relief commission of each county, on the first day of January in each year “shall appoint for each township, except for any part thereof within the limits of a city, and for each ward in any city in the county, a soldiers’ relief committee, consisting of three persons * * * one of whom shall be designated as chairman of such township or ward soldiers’ relief committee.” It being the mandatory duty to appoint township committees, actual expenses incurred in the performance of this duty and in seeing that such committees are organized in accordance with the statute are, obviously, such expenses as are covered in Section 2932, *supra*.

I assume that your second question involves the expenses of the members of the soldiers’ relief commission in investigating the merits of cases where relief is sought, rather than the expense of contracting with some other person or organization to make such investigation, and I predicate my opinion on such assumption.

Section 2934, General Code, provides that each township and ward committee shall receive all applications for soldiers’ relief from persons within their jurisdiction and examine carefully into the case of each applicant, and on the first Mon-

day in May of each year make a list of all those who in their opinion require aid and are legally entitled to relief. This list shall be delivered to the soldiers' relief commission or its secretary on or before the last Monday in May of each year under Section 2935, together with other information as therein provided. Section 2936, General Code, provides that the soldiers' relief commission on such last Monday in May shall determine from the lists certified from the various committees under their jurisdiction the probable amount necessary for soldiers' relief for the ensuing year. This amount shall be certified to the county commissioners and shall be levied at the county commissioners' June session, subject to the one-half mill limitation therein set forth. Section 2937, General Code, reads as follows:

"On the fourth Monday of November of each year and at such other times as may be necessary, the soldiers' relief commission shall meet at the office of the county commissioners, or in a suitable room furnished by the county for that purpose, and examine carefully the lists and statements of those reported by the township and ward soldiers' relief committees, and also all cases not included in such lists, who, before and during their session, have been recommended to the commission for aid under these provisions. If satisfied that those so recommended, or any of them are in need of assistance and are entitled thereto under these provisions, the commission shall fix the amount to be paid each month in each case to such person or family."

Consideration of the foregoing sections setting forth the detailed machinery for the functioning of soldiers' relief commissions and their township and ward committees clearly discloses that the responsibility of passing upon the merits of specific cases alleged to be entitled to compensation, rests in the first instance, generally, with the township and ward committees. The final responsibility, however, of determining whether or not indigent persons are entitled to soldiers' relief is vested in the soldiers' relief commission in view of the provisions of Section 2937, *supra*. Before any amount may be fixed to be paid to any such person, the commission must be "satisfied that those so recommended, or any of them are in need of assistance and are entitled thereto." I do not believe that it may be contended that the commission must predicate its judgment as to the merits of the various cases before it, solely upon the information and findings of the various committees, —this especially in view of the fact that the commission may at their November meeting consider any "cases not included in such lists" as are submitted by the township and ward committees.

It follows, therefore, that any necessary expenses incurred by members of the soldiers' relief commission in connection with a valid investigation of any or all cases of indigent persons entitled to soldiers' relief, is an expense incurred in the performance of their duties and properly payable by the county commissioners under the provisions of Section 2932, *supra*.

Respectfully,
GILBERT BETTMAN,
Attorney General.