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May 15, 1952

Opinion No. 52-143

Mr. J. N. Brennen  
Manager  
State Labor Department  
Arizona State Building  
Phoenix, Arizona

N.B.

Dear Sir:

You have handed to us a copy of a letter dated April 22 addressed by you to the Industrial Commission of Arizona and requested our opinion as to whether the request submitted by you therein to the Industrial Commission can be legally granted. The legal question raised is whether or not the Industrial Commission can pay any portion of the salaries of persons employed in its Labor Department out of the Workmen's Compensation Fund, the basis for such payment to be on the grounds that a part of the work performed by employees in the Labor Department consists of work directly related to the administration of the Workmen's Compensation Fund such as establishment of hourly and weekly wages, the investigation of matters of legal employment of minors in relation to compensation claims and assistance to new business and to employers in complying with the Workmen's Compensation Act and the general coordination in referring persons to the proper departments in the handling of their problems.

We find no specific provision in the statutes for the establishment of a labor department of the Industrial Commission. Under Section 56-907, the Commission is granted certain general powers as follows:

"The commission shall have full power, jurisdiction and authority to administer and enforce all laws for the protection of life, health, safety and welfare of employees in every case and under every law, where such duty is not now specifically delegated to any other board or officer, and in such latter cases; to counsel and advise and assist in the administration and enforcement of such

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laws; to investigate, ascertain and determine such reasonable classification of persons, employments and place of employment necessary to carry out the purposes of this article; to promote the voluntary arbitration, mediation and conciliation of disputes between employers and employees; to establish and conduct free employment agencies and license and supervise the work of private employment offices and to bring together employers seeking employees and working people seeking employment, and to make known the opportunities for employment in the state; to collect, collate and publish all statistical and other information relating to employees, employers, employments, and places of employment, with such other statistics as it deems proper; and upon petition by any person that any employment or place of employment is not safe or is injurious to the welfare of any employee, with or without notice, to make investigations necessary to determine the matter complained of. \* \* \*

Various other statutes concerning labor matters place the responsibility for their enforcement upon the Industrial Commission. Hence it is only reasonable that the Commission is required to assign certain of its employees to this type of work and that therefore a department of labor is authorized. In so far as this department of labor confines its work solely to these labor matters not directly related to the Workmen's Compensation Act or to the Workmen's Compensation Fund, moneys for the salaries of the persons in the department must come from an appropriation for that purpose.

Section 56-905 contains the provision for payment of salaries of certain employees out of the Workmen's Compensation Fund. Said section reads:

"The commission may employ actuaries, accountants, inspectors, examiners, experts, clerks, physicians and other assistants, and fix their compensation.

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Such employment and their compensation shall be first approved by the governor, and together with necessary traveling expenses allowed by the commission, shall be paid out of the state compensation fund. Salaries of the commission and secretary shall be paid by the state. Their actual and necessary traveling expenses while on the business of the commission shall be paid from the state compensation fund. The members of the commission may confer and meet with officers of other states and officers of the United States on matters pertaining to their official duties. \* \* \*

We find no legal restriction upon this power of the Commission to employ such persons other than that contained within the words of the statute which is that the employment must be in connection with the administration of the compensation fund. Thus the salary and expense of any employee whose duties are in direct administration of the compensation fund for the purpose of aiding the Commission in its administration, are charges against that fund either expressly or by necessary implication. We see no reason why an employee may not be assigned duties of such a nature upon a part time basis or upon a part time basis where the balance of said employee's time is devoted to other matters concerning the Industrial Commission but not directly related to the administration of the Workmen's Compensation Fund.

We are therefore of the opinion that to the extent that the duties of persons within the Labor Department can with certainty be divided into a proportion which expresses the fraction or percentage of their duties and time directly related to the administration of the Workmen's Compensation Fund, compensation for such percentage or fraction of said time can be made by the Commission from the Workmen's Compensation Fund, subject of course to the other provisions of Section 56-905 relative to approval by the Governor.

Trusting that the foregoing is sufficient for your purposes, we are

Very truly yours,

FRED O. WILSON  
Attorney General

CHARLES C. STIDHAM  
Assistant Attorney General

CCS:d