August 1, 1996

OPINION NO. 96-041

The Honorable Greg Carroll
Adams County Prosecuting Attorney
Room 112, Courthouse
West Union, Ohio 45693

Dear Prosecutor Carroll:

I have before me your opinion request concerning the procurement of life insurance for township trustees. Through additional information provided by your office, I understand that your questions are whether R.C. 505.60(B) authorizes a board of township trustees to procure individual life insurance policies for the trustees and whether life insurance procured under R.C. 505.60(B) may be whole life, as opposed to term, insurance.

In order to answer your questions, it is first necessary to examine the authority of a board of township trustees to obtain life insurance for its members. As a creature of statute, a board of township trustees is limited to the authority granted it by statute. *Trustees of New London Township v. Miner*, 26 Ohio St. 452, 456 (1875). Specifically concerning the purchase of life insurance for township personnel, R.C. 505.60(B) states:

> A board of township trustees may procure and pay all or any part of the cost of *group life insurance* to insure the lives of officers and full-time employees of the township. The amount of group life insurance coverage provided by the board to insure the lives of officers of the township shall not exceed fifty thousand dollars per officer.[1] (Emphasis and footnote added.)

It is well established that, in interpreting a statute, it is necessary "to give effect to the words used, not to delete words used or to insert words not used." *Cleveland Electric Illuminating Co. v. City of Cleveland*, 37 Ohio St. 3d 50, 524 N.E.2d 441 (1988) (syllabus, paragraph three). Having modified

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[1] As officers of the township, township trustees are entitled to receive group life insurance coverage provided by the township under R.C. 505.60(B). *See* 1992 Op. Att'y Gen. No. 92-068 (township trustees are officers for purposes of Ohio Const. art. II, § 20).

the term "life insurance" by the word "group" in R.C. 505.60(B), the General Assembly has expressly limited a board of township trustees to obtaining only group life insurance,[2] not individual life insurance policies, for the township's officers and full-time employees.[3] Thus, I conclude that R.C. 505.60(B) does not authorize a board of township trustees to procure and pay for individual life insurance policies for the township's officers and employees.

The second part of your question is whether R.C. 505.60(B) authorizes a board of township trustees to procure and pay for group life insurance that provides whole life, as opposed to term, coverage.[4] R.C. 505.60(B) does not detail the permissible terms of a policy of group life insurance

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[2] As explained in 1969 Op. Att'y Gen. No. 69-046 at 2-97:

> Group insurance is a multi-party contract involving the insurer, an employer or analogous person, the insured and the beneficiaries. Thus the word "group" when used to describe insurance has a special or significant meaning. The legislature is presumed to have used the word "group" in the technical or special sense when there is no indication that another meaning was intended. (Various citations omitted.)

In contrast, individual contracts of life insurance insure only a single individual.

[3] Group life insurance is subject to the provisions of R.C. Chapter 3917. *Perkins v. Nationwide Life Insurance Co.*, 41 Ohio St. 2d 213, 324 N.E.2d 724 (1975); *see* R.C. 3917.06 ("[e]xcept as provided in [R.C. 3917.01-.06], no contract of life insurance shall be made covering a group in this state"); 1960 Op. Att'y Gen. No. 1091, p. 19 (syllabus, paragraph two). R.C. 3917.01(B)(7) specifically includes in the definition of group life insurance "[l]ife insurance covering employees of a political subdivision." *See Williams v. Community Life Insurance Co.*, No. 1664 (Ct. App. Scioto County Dec. 30, 1987). One condition of a group life insurance policy issued under R.C. 3917.01(B)(7) covering employees of a political subdivision is that such policy is issued to the political subdivision, not to an employee or to a number of employees. Additional conditions and restrictions upon the issuance of group life insurance in general are imposed by R.C. Chapter 3917. *Id. See, e.g.*, R.C. 3917.03 (employer deemed policyholder); R.C. 3917.06 (requiring, in part, that copy of policy form be filed with Superintendent of Insurance). Thus, the group life insurance coverage that a township may procure under R.C. 505.60(B) must conform to, and is limited by, the terms of R.C. Chapter 3917.

[4] According to *Black's Law Dictionary* (6th ed. 1990) 806, "term insurance" means a "[f]orm of pure life insurance having no cash surrender or loan value and generally furnishing insurance protection for only a specified or limited period of time; though such policy is usually renewable from term to term." *Black's Law Dictionary* at 805 defines "straight life" or "whole life" insurance, in contrast to "term insurance," in part, as follows:

> insurance for which premiums are collected so long as the insured may live, whereas, term insurance is insurance which promises payment only within a stipulated term covered by the policy; though such term policies are commonly renewed each term.

the trustees may procure. *Cf.* R.C. 505.60(A) (procurement of health care insurance policies for township personnel). The language of R.C. 505.60(B) speaks only in terms of "group life insurance" for specified township personnel in an amount not to exceed fifty thousand dollars per officer. It is my understanding that although group life insurance is most commonly term insurance, it is sometimes possible to obtain group life insurance in the form of whole life insurance.

As is apparent from the discussion of the first part of your question, the General Assembly carefully drafted R.C. 505.60(B) to define the grant of authority to township trustees. Because the General Assembly did not further modify the phrase "group life insurance" with the word "term," I cannot infer such limitation. *See generally Cleveland Electric Illuminating Co. v. City of Cleveland, supra*. In addition, I note that, had the General Assembly intended to limit the type of group life insurance that townships may obtain under R.C. 505.60(B) to group *term* life insurance, it could easily have so stated, as it did in R.C. 3917.01(C).[5] *See generally Metropolitan Securities Co. v. Warren State Bank*, 117 Ohio St. 69, 76, 158 N.E. 81, 83 (1927) (where the General Assembly has "used certain language in the one instance and wholly different language in the other, it will...be presumed that different results were intended"). Thus, I conclude that, pursuant to R.C. 505.60(B), a board of township trustees may procure group life insurance for its officers and full-time employees in the form of term insurance or whole life insurance.[6]

Based on the foregoing, it is my opinion, and you are hereby advised that:

1.R.C. 505.60(B) does not authorize a board of township trustees to procure or pay for individual life insurance policies for the township's officers and employees.

The premium for whole life insurance remains the same whereas the premium for term insurance increases with the age of the insured, *i.e.* as the risk increases. Also, whole life policies build up cash reserves, whereas term policies do not.

[5] R.C. 3917.01(C) states in part: "Any policy issued pursuant to this section, except a policy issued to a creditor under [R.C. 3917.01(B)(4)], may be extended, in the form of *group term life insurance* only, to insure the spouse and dependent children of an insured employee or member, or any class or classes thereof, subject to [certain] requirements." (Emphasis added.)

[6] I caution that any change in the type of group life insurance provided for a township's officers must be examined to determine whether such a change in coverage results in a change in compensation prohibited by Ohio Const. art. II, § 20. *See generally* 1992 Op. Att'y Gen. No. 92-031. For example, if a group whole life insurance policy had a cash value to any of the officers insured by the township under that policy, such cash value would be an additional benefit to the officers above that of a group term life insurance policy that had no cash surrender value to such officers. Thus, a change in group life insurance coverage made during a township officer's term of office that provided the officer a cash value not previously provided the officer would constitute an impermissible in-term increase in compensation prohibited by Ohio Const. art. II, § 20.

2.Pursuant to R.C. 505.60(B), a board of township trustees may procure group life insurance for its officers and full-time employees in the form of term insurance or whole life insurance.

Respectfully,

BETTY D. MONTGOMERY
Attorney General

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The Honorable Greg Carroll
Adams County Prosecuting Attorney
Room 112, Courthouse
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SYLLABUS: 96-041

1. R.C. 505.60(B) does not authorize a board of township trustees to procure or pay for individual life insurance policies for the township's officers and employees.

2. Pursuant to R.C. 505.60(B), a board of township trustees may procure group life insurance for its officers and full-time employees in the form of term insurance or whole life insurance.