

OPINION NO. 68-007**Syllabus:**

Under Section 7 (D) of Amended Substitute Senate Bill No. 350 each nonteaching employee of a city, exempted village, local, county, or joint vocational school district shall receive an increase in compensation of ten cents an hour to a maximum of two thousand eighty hours per year and no such employee shall receive an increase of less than one hundred dollars per year. Furthermore, if a school district is unable to comply with Section 7 (D) of Amended Substitute Senate Bill No. 350 because of lack of funds, then under the provision of Section 9 of Amended Substitute Senate Bill No. 350 the school district should request an additional subsidy from the State Department of Education.

To: John T. Corrigan, Cuyahoga County Pros. Atty., Cleveland, Ohio
By: William B. Saxbe, Attorney General, January 10, 1968

I have before me your communication concerning Senate Bill No. 350 which reads as follows:

"We understand that all regular, non-certificated employees must receive a minimum of \$100.00, and it is provided that: each regular non-teaching employee shall receive an increase in compensation of ten cents per hour to a maximum of 2,080 hours

per year, provided that no employee shall receive an increase of less than \$100.00 per year.'

"1. Does this mean that each non-certificated employee shall receive a basic \$100.00 per year salary increase?

"2. In addition to the \$100.00, does a non-certificated employee receive ten cents per hour more if he works more than 1,000 hours?

"3. Suppose a non-certificated employee works 2,080 hours and the employer board of education does not have the funds to pay \$208.00 in addition to his regular salary--what then?"

Section 7 (D), Amended Substitute Senate Bill No. 350 reads as follows:

"For school years 1967-68 and 1968-69, each city, exempted village, local, county, and joint vocational school district shall spend for increased salaries for noncertificated employees an amount equal to eighty dollars times the number of approved classroom units for the school district, in addition to payments made pursuant to the compensation plan required by division (A) of this section for such noncertificated employees. Each regular nonteaching employee shall receive an increase in compensation of ten cents per hour to a maximum of two thousand eighty hours per year, provided that no such employee shall receive an increase of less than one hundred dollars per year. The increases in compensation made pursuant to this section may include plans established pursuant to section 3313.202 of the Revised Code. Increases in compensation authorized by this section shall not apply to employees whose wage rates are established in accordance with the procedures set forth in Chapter 4115. of the Revised Code."

The language of division (D) of this section clearly indicates that each nonteaching employee shall receive an increase in pay of ten cents an hour up to two thousand eighty hours per year and no employee shall receive an increase of less than \$100 per year. It therefore follows in answer to your first and second question that each regular nonteaching employee must receive a basic one hundred dollar per year salary increase and in addition to the one hundred dollars, each nonteaching employee must receive ten cents per hour more if he works more than one thousand hours per year up to a maximum of two thousand eighty hours.

Your third inquiry involves the problem of what must a board of education do if it is unable to meet the requirements of Section 7, division (d) of Amended Substitute Senate Bill No. 350.

Section 9 of Amended Substitute Senate Bill No. 350 which provides for just such a contingency reads in part as follows:

"In addition to all other payments authorized by this act, an additional payment shall be made to each school district which is unable to meet the requirements set forth in section 3317.13 of the Revised Code and division (D) of section 8 (sic) [Section 7] of this act, plus the employer cost of retirement incurred from such requirements, between September 1, 1967 and December 31, 1968. Any district which is eligible for payments under section 3317.02 of the Revised Code and which is unable to maintain the salary schedule required by section 3317.13 of the Revised Code and to comply with the requirements of division (D) of section 8 (sic) [Section 7] of this act, plus the employer cost of retirement incurred from such requirements, may request an additional subsidy to enable such district to meet these obligations. The request shall be made upon forms provided by the state department of education and shall be submitted before October 31, 1967. The amount to be paid to each qualifying district shall be determined by the department of education pursuant to rules established by the state board of education. Payments for the last four calendar months of 1967 shall be disbursed in a single payment in December, 1967.

"Each district which is unable to comply with these requirements for calendar year 1968 may reapply to the department in the same manner as required for the initial application. The reapplication shall be made between January 1, 1968 and January 15, 1968. The department shall determine, pursuant to rules established by the state board of education, the amounts to be paid to each qualifying district between January 1, 1968 and December 31, 1968 and shall pay such amounts in twelve equal monthly installments beginning in January, 1968.

"* * * * *"

If a noncertificated employee works two thousand and eighty hours and the employer board of education does not have the funds to pay him two hundred and eight dollars in addition to his regular salary, then the board should request an additional subsidy from the state department of education.

It is therefore my opinion and you are hereby advised that under Section 7 (D) of Amended Substitute Senate Bill No. 350 each nonteaching employee of a city, exempted village, local, county, or joint vocational school district shall receive an increase in compensation of ten cents an hour to a maximum of two thousand eighty hours per year and

no such employee shall receive an increase of less than one hundred dollars per year. Furthermore, if a school district is unable to comply with Section 7 (D) of Amended Substitute Senate Bill No. 350 because of lack of funds, then under the provision of Section 9 of Amended Substitute Senate Bill No. 350 the school district should request an additional subsidy from the State Department of Education.