

2200.

GROUP INSURANCE ACT — COUNTY COMMISSIONERS, BOARD OF—"EMPLOYER" OF ALL EMPLOYES OF COUNTY OFFICERS—SECTION 9426-3 G. C.—GROUP LIFE INSURANCE POLICY, INSURING LIVES OF SUCH EMPLOYES, MAY BE ISSUED TO SUCH BOARD.

SYLLABUS:

The board of county commissioners is the "employer" of all the employes of the county officers within the meaning of such term as it is used in Section 9426-3, General Code, and a group life insurance policy insuring the lives of such employes of the county officers may be issued to the board of county commissioners as the employer.

Columbus, Ohio, April 18, 1940.

Hon. Ward C. Cross, Prosecuting Attorney,
Jefferson, Ohio.

Dear Sir:

Your recent request for my opinion reads as follows:

"More than 75% of the employees of Ashtabula County have indicated their desire to obtain the benefits of group insurance to be issued for hospitalization and surgical care.

Section 9426-1a empowers the Auditor of the County to deduct premiums from the salaries payable to County Employees.

The question which we would like to have you answer is whether or not the County Commissioners are employers within the purview of Section 9426-3 of the General Code, so that they would be empowered to enter into a contract with an insurance company for the issuance of the group insurance policy."

Section 9426-1, General Code, provides in part as follows:

* * * * *

(2) The following forms of life insurance are hereby declared to be group life insurance within the meaning of this act:

* * * * *

(g) Life insurance covering employees of a political subdivision or district of the state of Ohio, or an educational or other institution supported in whole or in part by public funds, or of any class or classes thereof, determined by conditions pertaining to

employment, or of the state of Ohio or any department or division thereof written under a policy issued to such political subdivision, district or institution, or the proper official or board of such state department or division which shall be deemed to be the employer for the purpose of this act, the premium on which is to be paid by such employees for the benefit of persons other than the employer; provided, however, that nothing herein contained shall permit the state of Ohio or any of the political subdivisions enumerated herein to pay any premiums stated in this section; and provided that when the benefits of the policy are offered to all eligible employees of a political subdivision or district of the state of Ohio or an educational or other institution supported in whole, or in part, by public funds, or a state department or division, not less than seventy-five per cent of such employees may be so insured; provided further that when employees apply and pay for additional amounts of insurance, a smaller percentage of employees may be insured for such additional amounts if they pass satisfactory medical examination."

The term "subdivision" is defined in Section 5625-1, General Code, as follows:

" 'Subdivision' shall mean any county, school district, except the county school district, municipal corporation or township in the state."

This same definition is contained in Section 2293-1, General Code. These two sections are respectively parts of the Uniform Tax Levy Law and the Uniform Bond Act, and these definitions are not required by the terms of the sections to be applied in cases other than those covered by the two Acts, but in my opinion these definitions are nevertheless applicable to the term "political subdivision" as used in the Group Life Insurance Act. It would therefore seem that employes of a county are employes of a political subdivision within the meaning of the term as used in the Group Life Insurance Act.

Sections 9426-1a and 9426-3, General Code, to which you refer, respectively provide as follows:

Sec. 9426-1a.

"In the event that any employee of a political subdivision or district of the state of Ohio, or of an institution supported, in whole or in part, by public funds, or any employee of the state of Ohio, authorizes in writing the auditor or other proper officer of the political subdivision, district, institution or the state of Ohio, of which he is an employee, to deduct from his salary or wages the premium or portion thereof agreed to be paid by him to an insurer authorized to do business in the state of Ohio for life, endowment, accident, health or health and accident insurance, an-

nuities, or hospitalization insuring a group under the group plan, or salary savings plan (,) such political subdivision, district, institution or the state of Ohio of which he is an employee is authorized to deduct from his salary or wages such premium, or portion thereof, so agreed to be paid by said employee and to pay the same to the insurer. The auditor, or other proper official, of such political subdivision, district, institution or the state of Ohio, of which he is an employee, is hereby empowered to issue warrants covering salary or wage deductions which have been authorized by such employee in favor of the insurer and in the amount so authorized by such employee."

Sec. 9426-3.

"In every group policy issued by a domestic life insurance company the employer shall be deemed to be the policy holder for all purposes, within the meaning of this act, and, if entitled to vote at a meeting of the company, shall be entitled to one vote thereat."

The county is not an "employer" of the deputies, assistants, clerks, bookkeepers and other employes in the county offices as the term is ordinarily used. Section 2981, General Code, provides that the various county officers may appoint and *employ* necessary employes for their respective offices, fix their compensation and discharge them. Nevertheless, the Group Insurance Act speaks of a political subdivision as the employer and it is apparently the intent of this Act that all employes in the county offices shall be considered as employes of the county for the purposes of the Act. Their salaries and wages are ordinarily paid out of county funds on warrants drawn on the county treasurer by the county auditor pursuant to Section 2981, General Code. This section also gives to the county commissioners authority to fix the aggregate amount of the compensation to be paid for each office.

The county commissioners are the only officials who could conceivably be said to be the employers of all the county employes. Section 9426-3, General Code, requires that the policy shall be issued to the employer and if this section is to be given any effect with respect to county employes the board of county commissioners must necessarily be considered as the "employer" within the meaning of the term as used in the Act.

In view of the foregoing and in specific answer to your question, I am of the opinion that the board of county commissioners is the "employer" of all the employes of the county officers within the meaning of such term as it is

used in Section 9426-3, General Code, and that a group life insurance policy insuring the lives of such employes of the county officers may be issued to the board of county commissioners as the employer.

Respectfully,

THOMAS J. HERBERT,
Attorney General.