

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also submitted a copy of a letter from the secretary of the Controlling Board to the effect that in accordance with Section 12 of House Bill No. 502, 87th General Assembly, said board has properly consented to and approved the expenditure of the money appropriated by the 87th General Assembly for the purpose covered by this contract.

Inasmuch as the cost of the improvement as fixed in the contract is less than the sum of \$3,000, it is unnecessary that the contractor furnish a surety bond, and no such bond has been furnished.

It also appears that there was no publication of an advertisement for bids as such advertisement was unnecessary inasmuch as the contract price is less than \$3,000. It appears, however, that informal bids had been received and the contract awarded to the lowest bidder. You have further submitted evidence indicating that plans and specifications were properly prepared, approved and filed.

Finding said contract in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1933.

BUREAU OF SAFETY AND HYGIENE—CLASSIFIED AND UNCLASSIFIED SERVICE IN DEPARTMENT DISCUSSED.

SYLLABUS:

The question, whether any particular person hereinafter appointed and employed in the bureau or department of safety and hygiene will be in the unclassified civil service of the state, depends upon whether such person is appointed as superintendent of said bureau or department or is an expert or technical assistant within the meaning of said terms as used in Section 1465-89a, General Code, and is so designated at the time of his employment. Any person hereafter employed in said category of positions, and so designated, will be in the unclassified service. Any person hereafter employed in said bureau or department in a position other than that of superintendent, expert or technical assistant, will be in the competitive classified civil service of the state unless such person is placed in the unclassified civil service by action of the Industrial Commission of Ohio as one of its quota of exemptions allowed it under the provisions of sub-section 8 of Section 486-8 of the General Code.

COLUMBUS, OHIO, April 5, 1928.

HON. P. F. CASEY, *Chairman, The Industrial Commission of Ohio, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication, which reads as follows:

“Under date of August 24, 1925, the State Civil Service Commission addressed a communication to your office in which inquiry was made as to

whether certain positions in the Department of Safety and Hygiene are in the unclassified civil service. Under date of September 8, 1925, your office replied to the inquiry of the State Civil Service Commission and called attention to Section 1465-89a of the General Code and advised that certain positions enumerated in the letter of the State Civil Service Commission are in the unclassified service of the state; that the remainder of the personnel of the Department of Safety and Hygiene is subject to the application of the Civil Service Law as to appointment and removal.

A counsel with the State Civil Service Commission has disclosed that there are different interpretations being placed upon the last paragraph of your letter to the State Civil Service Commission dated September 8, 1925. Are we correct in our understanding that the phrase 'the remainder of the personnel', as used in the last paragraph of your letter, relates only to the personnel of the Bureau or Department as it was established at the time the letter was written, and that the paragraph was not intended to mean that other and additional positions may not be created and placed in the unclassified service in the manner provided by Section 1465-89a, General Code?"

Section 1465-89a, General Code, referred to in your communication, provides that the Industrial Commission of Ohio, having by virtue of the provisions of Section 35 of Article II of the State Constitution the expenditure of the fund therein provided, for the investigation and prevention of industrial accidents and diseases, shall, in the exercise of such authority and in the performance of such duties, employ a superintendent and such experts, engineers, investigators, clerks and stenographers as in its opinion may be deemed necessary and proper for the efficient operation of a bureau for the prevention of industrial accidents and diseases, thereby created, and that, subject to the approval of the Governor, the Industrial Commission shall fix the compensation for such employees.

More immediately touching the question presented in your communication, said Section 1465-89a, General Code, further provides as follows:

"The superintendent of the bureau for the prevention of industrial accidents and diseases shall be a competent person with at least five years experience in industrial accident or disease prevention work. Such superintendent and experts and technical assistants in such bureau, who are designated as such by the Industrial Commission at the time of their employment, shall be in the unclassified civil service of the state and shall hold office during the pleasure of the commission."

From the above quoted provisions of Section 1465-89a, General Code, it follows that the superintendent of the bureau or Department of Safety and Hygiene, and such experts and technical assistants in such bureau or department who may be now or hereafter employed by the Industrial Commission and so designated at the time of their employment, shall be in the unclassified civil service of the state and shall hold their respective employments at the pleasure of the commission. It likewise follows, however, from the provisions of this section and the general laws relating to the civil service of the state, that all other persons who may be now or hereafter employed in said bureau or department are and will be in the classified civil service of the state unless the position of any such person so employed in said bureau or department is placed in the unclassified service under the provisions of sub-section 8 of Section 486-8, General Code, which provides that two secretaries, assistants or clerks and one personal stenographer for each of the

principal appointive executive officers, boards or commissions may by designation be placed in the unclassified service.

In this connection it will be noted that the superintendent of the Bureau of Department of Safety and Hygiene is not a principal appointive executive officer within the meaning of the section and subdivision thereof just noted, and if any positions in said bureau or department, other than those of the experts and technical assistants mentioned in Section 1465-89a, are exempted from the classified civil service, such positions must be exempted, if at all, by the Industrial Commission of Ohio as a part of its quota of exemptions allowed it as a principal appointive board or commission, under sub-section 8 of Section 486-8, General Code, above noted.

By way of specific answer to the question made in your communication, I am of the opinion that the question, whether any particular person hereinafter appointed and employed in the Bureau or Department of Safety and Hygiene will be in the unclassified civil service of the state, depends upon whether such person is appointed as superintendent of said bureau or department or is an expert or technical assistant within the meaning of said terms as used in Section 1465-89a, General Code, and is so designated at the time of his employment. Any person hereafter employed in said category of positions, and so designated, will be in the unclassified service. Any person hereafter employed in said bureau or department in a position other than that of superintendent, expert or technical assistant, will be in the competitive classified civil service of the state unless such person is placed in the unclassified civil service by action of the Industrial Commission of Ohio as one of its quota of exemptions allowed it under the provisions of sub-section 8 of Section 486-8 of the General Code.

Respectfully,
EDWARD C. TURNER,
Attorney General.