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1. CITIZENS COMMITTEE—WILL TERMINATE OCTOBER 5, 1955—AMENDMENT, SECTION 3311.30 RC.
2. NEW CITIZENS COMMITTEE DULY APPOINTED—WHERE CITY SCHOOL DISTRICT EXERCISES RIGHT TO JOIN—CITY DISTRICT WILL COME UNDER JURISDICTION OF COMMITTEE—NOTHING IN SECTION 3311.30 RC REQUIRES ANY ADDITION TO OR CHANGE IN MEMBERSHIP ON ACCOUNT OF ENTRANCE OF CITY DISTRICT.
3. CITY SCHOOL DISTRICT NOT PREVIOUSLY A MEMBER OF COMMITTEE—STATUS AS TO COUNTY CONVENTION—COUNTY COMMISSIONERS—ADDITIONAL MEMBERS OF COMMITTEE.
4. NOTHING IN SECTION 3311.30 RC REQUIRES EACH SCHOOL DISTRICT, SUBJECT TO ITS PROVISIONS, SHALL HAVE REPRESENTATION ON CITIZENS COMMITTEE—BOARD MEMBERSHIP NOT REQUIRED TO BE ENLARGED TO MORE THAN NINE.

SYLLABUS:

1. The amendment of Section 3311.30, Revised Code, effective October 5, 1955, will as of that date terminate the existence of a citizens committee theretofore appointed.

2. Where, after October 5, 1955, the effective date of the amendment of Section 3311.30, Revised Code, a new citizens committee has been duly appointed, and thereafter a city school district exercises its right to join such citizens committee, such city district will come under the jurisdiction of such committee as then constituted, and nothing in Section 3311.30, as amended, requires any addition to or change in the membership of said committee on account of such entrance of a city district.

3. In case a new citizens committee has been appointed after October 5, 1955, the effective date of the amendment of Section 3311.30, of the Revised Code, and thereafter a city school district which had not previously chosen to join such committee, elects so to do, there is no provision in the law that would require the county board of education to reconvene the county convention for the purpose of appointing one or more additional members of such committee representing such city district, but said county committee would have authority so to do. Such county convention, if so reconvened, would have authority to appoint additional members of the committee but there is no provision in the law requiring it to do so.

4. Nothing in the provisions of Section 3311.30, Revised Code, as amended, effective October 5, 1955, requires that each school district subject to its provisions shall have representation on the citizens committee, or that such board should be enlarged to a membership of more than nine.

Columbus, Ohio, September 9, 1955

Hon. R. M. Eyman, Superintendent of Public Instruction
Department of Education, Columbus, Ohio

Dear Sir:

I have before me your request for my opinion, reading in part as follows:

“Amended House Bill No. 498, enacted by the 101st General Assembly, amends Section 3311.30 of the Revised Code, which section relates to the creation of County Citizens Committees to study the need and recommend proposals for the reorganization of school districts.

“Under the provisions of Section 3311.30 as originally enacted in 1953 the jurisdiction of a County Citizens Committee includes all school districts in a county with the exception of city districts. It appears that under the section as amended a city district may elect to join with the other districts of a county in the selection of a Citizens Committee.

“Under the statute as enacted in 1953, Citizens Committees of nine members each have been created in a number of counties of the state and the committees so created are now engaged in a study of school district organization in their respective counties.

“The Department of Education has received, from Citizens Committees now functioning, a number of questions as to how amended Section 3311.30, when it becomes law on October 5, 1955, will affect Citizens Committees now existing. This department is directly concerned in the matter since under the provisions of Section 3311.31 of the Revised Code a Citizens Committee is required to file with the superintendent of public instruction a report approving existing organization or a plan for the reorganization of the school districts within the county, and the superintendent is vested with authority to approve or disapprove any such plan.”

Section 3311.30 of the Revised Code, as amended by Amended House Bill No. 498, of the 101st General Assembly, contains but few changes from the language of the original act, which became effective June 1, 1954. The new act will become effective October 5, 1955. Section 3311.30, as contained in Amended Senate Bill No. 498, reads as follows:

“There shall be created in each of the counties of this state a county citizens’ committee to study the need and recommend proposals for the reorganization of the school districts of the county when the county board of education shall adopt a resolution providing for a citizens committee, or when a petition is filed with the county board of education containing the names of three per cent of the electors voting in the last general election in the county or 400 electors whichever number is smaller. The jurisdiction of the citizens committee shall include all school districts in the county except city districts *which did not join such citizens committee.*

“Each county committee shall consist of nine *or more* persons who are legal residents of the county and who are not elected officials or paid employees of the public school system.

“The selection of the nine *or more* members of each county citizens committee shall be accomplished in the following manner:

“(A) Each *city*, exempted village, local and county board of education shall authorize one of its members to serve as a delegate to a convention which shall be held at the county seat at a time fixed by the county superintendent of schools *within ninety days after the effective date of this act.*

“(B) Each county convention so convened shall proceed to select a county citizens committee of nine *or more* lay persons as provided by section 3311.30 of the Revised Code. No county citizens committee shall have more than one member from any school district unless said county has less than nine school districts whereupon a school district may have more than one member but not exceeding three members. The members selected shall serve for a period of four years. Any vacancy caused by resignation, death, removal of residence from the school district or any other cause, shall be filled by the appointment of a resident of the same school district by the chairman of the county committee for the remainder of the unexpired term, subject to the approval of a majority of such county citizens committee.

“(C) At the time of the organization meeting each county citizens committee shall fix the time for holding its regular meetings. Regular meetings shall be held at least once each month until such time as a reorganization program has been approved by the electors.

“(D) The county citizens committee shall elect its own officers, all of whom shall be members of the committee, provided, however, the county superintendent of schools may serve as secretary of the committee but shall have no vote. A quorum shall be constituted when *a majority* of the members are present at any meeting. However, a majority vote of the entire committee shall

be required to approve or disapprove any proposed plan for the reorganization of school districts.

“(E) *The state board of education, when requested by a citizens advisory committee, may furnish such committee with technical and advisory services.*”

The portions emphasized represent the changes made by the amendment. In each case, the changes consisted of the addition of one or more words. Nothing is omitted. It will be observed that except for paragraph (E), the changes appear to have grown out of the desire to admit city districts to the jurisdiction of the citizens committee, such districts having been by the original act, excluded. In addition to this feature, the number of members who constitute the citizens' committee, which was formerly nine, is now enlarged to nine *or more*. I call your attention to the fact that under the old as well as the new statute, *there was no provision that each district embraced within the jurisdiction of the citizens' committee, should be entitled to representation on that committee.* There was a provision that no district should have more than one member unless the county had less than nine school districts, whereupon a school district may have more than one but not exceeding three members.

Accordingly, the mere fact that a city district may now come into the plan, of its own volition, does not entitle it, as a matter of law, to have a representative on the citizens' committee. If, therefore, a city district exercises the right to join in the general plan of the law and submits to the jurisdiction of the citizens committee, it would have no right to insist that it have representation on that committee.

You have presented four questions for my consideration which I shall undertake to answer in their order.

1. Will a citizens' committee created under existing Section 3311.30 of the Revised Code, cease to exist on and after October 5, 1955, and therefore will the terms of office of the members of a committee now existing expire as of that date?

It will be noted that under the law both before and after the amendment, the term of office of members of the citizens' committee is for a period of four years.

The effect of amendment of a statute is not, as a rule, to destroy the existing law but to continue all of its provisions, excepting in so far as

they are clearly changed or destroyed by the amendment. In 37 Ohio Jurisprudence, page 428, the author uses this language :

“* * * the part which remains unchanged is to be considered as having continued the law from the time of its original enactment, and the new or changed portion to have become the law only at, and subsequent to, the passage of the amendment. The constitutional provision that no law shall be amended unless the new act contains the section or sections amended, and the section or sections so amended shall be repealed, is not intended to change the operation of the original section as to portions thereof which are not changed. * * *”

In the case of *State, ex rel. Durr, v. Spiegel*, 91 Ohio St., 13, it was held :

“Where an amendatory act contains the entire section or sections as amended and repeals the original section or sections in compliance with Section 16, Article II of the Constitution, the amended sections are to be given the meaning they would have had if they had read from the beginning as they do as amended, except where such construction would be inconsistent with the manifest intent of the legislature.”

Accordingly, if it were not for the provision of paragraph (A) of the amendment, I should hold that the existence and term of office of the citizens committee appointed before its effective date would continue uninterrupted, even though a city board of education should elect to come into the plan. But the legislature saw fit to inject a phrase which would indicate a definite intention to cause the proceeding for the appointment of such committee to start anew. There, it will be noted that each district, including city districts is to appoint a delegate to the county convention, and that such convention is to meet “within ninety days after the effective date of this act” to select a county citizens committee.

This procedure would of necessity result in the dissolution of the committee appointed under the present law, and its powers and functions would cease as of the effective date of the new act. It is quite possible that no city district located within the county cares to be included within the plan, and therefore declines to send a delegate to the county convention, but that would not alter the conclusion which I have indicated that the legislature intended the procedure to make a new start.

2. Where a county now had a citizens committee and it is the desire of a city school district in the county that the jurisdic-

tion of the citizens committee include the city district after October 5, 1955, can the provisions of Section 3311.30 as amended be satisfied by the addition of one or more members to the existing committee?

In answer to your first question I have asserted that upon the amendment becoming effective, the existing citizens committee will cease to exist, and the process of appointment will start anew. Assuming that a city district exercises its right to become a part of the plan of the law by sending a member of its board to the county convention to participate in the selection of a new committee, the probability is that one or more members will be appointed who are residents of the city. The problem suggested by your question could only arise if after this reorganization, a city should elect to come in. In that case, I see no process by which that city district could secure representation on the committee, except by a re-convening of the county convention and the enlargement of the citizens committee. Certainly the committee itself has no power to add to its numbers or make any appointment.

3. Should the county board of education convene a new convention of delegates representing all boards of education or may the existing committee add to its membership one or more persons to represent the city or cities?

This question has been substantially answered in answer to the previous question. As I have already indicated, the county board of education might convene a new convention or reconvene the old, for the purpose of appointing one or more additional members representing a city which has elected to come into the plan, after the reorganization of the citizens committee, but so far as the law is concerned, no duty is put upon any body to take such action.

4. Because of the fact that Section 3311.30 as amended provides that each county citizens committee shall consist of nine or more members, there appears to be some demand in counties where a committee is already in existence that the committee be enlarged so that each local school district will have representation. Does Section 3311.30 as amended require a county board of education to recognize such demand?

This question may be answered summarily in the negative. As amended, the section under consideration certainly does not contain any provision requiring such action to be taken. What has been said above

in answer to the other questions will, I think, make it clear that if changes are to be made in the composition of the citizens committee, they should be made by the county convention, which has the sole power of appointment.

In specific answer to your questions, it is my opinion :

1. The amendment of Section 3311.30, Revised Code, effective October 5, 1955, will as of that date terminate the existence of a citizens committee theretofore appointed.

2. Where, after October 5, 1955, the effective date of the amendment of Section 3311.30, Revised Code, a new citizens committee has been duly appointed, and thereafter a city school district exercises its right to join such citizens committee, such city district will come under the jurisdiction of such committee as then constituted, and nothing in Section 3311.30, as amended, requires any addition to or change in the membership of said committee on account of such entrance of a city district.

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4. Nothing in the provisions of Section 3311.30, Revised Code, as amended, effective October 5, 1955, requires that each school district subject to its provisions shall have representation on the citizens committee, or that such board should be enlarged to a membership of more than nine.

Respectfully,

C. WILLIAM O'NEILL
Attorney General