

OPINION NO. 84-001

Syllabus:

Pursuant to R.C. 124.15(H), the Ohio Expositions Commission may fix the compensation of the Commission's General Manager at any rate within the pay range assigned to that position's classification in accordance with R.C. 124.14, and may adjust the rate of pay within such pay range at any time subject to the restrictions set forth in R.C. 124.15(H).

To: Robert M. Ward, Chairman, Ohio Expositions Commission, Columbus, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, January 19, 1984

I have before me your opinion request in which you ask: "Who has the authority to set the salary of the General Manager of the Ohio Expositions Commission after the classification and pay range [have] been established, the Ohio Expositions Commission pursuant to O.R.C. 991.02(G) or the Director of Administrative Services pursuant to O.R.C. Chapter 124?" Since you have not asked about a possible change in salary resulting from the reclassification of the General Manager's position or the reassignment of the person serving as General Manager to a different classification, this opinion does not address those issues.

Pursuant to R.C. 991.02(G), the Ohio Expositions Commission "shall employ and prescribe the powers and duties of a general manager who shall serve in the unclassified civil service at a salary fixed pursuant to section 124.14 of the Revised Code." R.C. 124.14 provides that the Director of Administrative Services, with the approval of the State Employee Compensation Board, shall establish "a job classification plan for all positions, offices, and employments the salaries of which are paid in whole or in part by the state" and shall assign each job classification to a pay range established under R.C. 124.15.

Pursuant to R.C. 124.14 and [1983-84 Monthly Record] Ohio Admin. Code 123:1-7-11, the Director of Administrative Services may assign positions within state agencies, boards, commissions, and county welfare agencies to the appropriate classification in the managerial and professional division of the classification plan set forth in that rule. It is my understanding that the General Manager of the Ohio Expositions Commission has been assigned to the classification of Executive Director I within the managerial and professional division of the classification plan and has been placed in pay range 42 within Schedule C of R.C. 124.15(A).

I note that each pay range set forth in Schedule C establishes only a minimum and maximum salary level for that range. For example, the minimum salary for pay range 42 is \$11.51 per hour (\$23,940.30 per year) and the maximum salary is \$16.52 per hour (\$34,361.60 per year). It is my understanding that the General Manager's current pay rate is \$14.75 per hour. Concerning the specific rate at which an employee compensated under Schedule C is to be paid, R.C. 124.15(H) states:

Employees in appointive managerial or professional positions paid under salary schedule C of division (A) of this section may be appointed at any rate within the appropriate pay range. This rate of

pay may be adjusted higher or lower within the respective pay range at any time the appointing authority so desires as long as the adjustment is based on the individual's ability to successfully administer those duties assigned to him. Salary adjustments shall not be made more frequently than once in any six-month period under this provision to incumbents holding the same position and classification.

Pursuant to this division, where an appointive managerial or professional position is assigned to a pay range within Schedule C, the appointing authority has discretion to fix the rate of pay anywhere within the assigned pay range. 1983 Op. Att'y Gen. No. 83-004.

R.C. 124.01(D) defines an appointing authority as "the officer, commission, board, or body having the power of appointment to, or removal from, positions in any office, department, commission, board, or institution." In the situation you pose, the Ohio Expositions Commission is the appointing authority of the Commission's General Manager. See R.C. 991.02(G).¹ Thus, it is the Ohio Expositions Commission which fixes the rate within the assigned pay range at which the Commission's General Manager is compensated. In addition, I note that, pursuant to R.C. 124.15(H), the Ohio Expositions Commission, as the appointing authority, may adjust the General Manager's rate of pay within the assigned pay range at any time, within the limitations set forth in that division.

Based on the foregoing, it is my opinion, and you are advised that, pursuant to R.C. 124.15(H), the Ohio Expositions Commission may fix the compensation of the Commission's General Manager at any rate within the pay range assigned to that position's classification in accordance with R.C. 124.14, and may adjust the rate of pay within such pay range at any time subject to the restrictions set forth in R.C. 124.15(H).

¹ As set forth above, R.C. 991.02(G) authorizes the Commission to employ a general manager. R.C. 991.02(G), which also authorizes the general manager to employ assistants, states: "The general manager shall be considered the appointing authority of the commission for purposes of Chapter 124. of the Revised Code." Such language, however, appears to designate the General Manager as the appointing authority of only those persons whom he is authorized to employ. See R.C. 124.01(D) (defining "appointing authority").