

4596.

BOARD OF PAROLE—NOT A PRINCIPAL APPOINTIVE BOARD—NOT ENTITLED TO PERSONAL EXEMPTIONS FROM CIVIL SERVICE.

SYLLABUS:

The Board of Parole is not a principal appointive board within the meaning of that phrase as contained in Section 486-8-a-8, of the General Code, and such Board is not entitled to any of the personal exemptions from the classified service of the State of Ohio allowed to elective state officers and principal executive officers, boards and commissions by Section 486-8-a-8 of the General Code.

COLUMBUS, OHIO, September 7, 1932.

HON. JOHN MCSWEENEY, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR SIR:—This will acknowledge your letter of recent date which reads in part as follows:

“Section 486-8 G. C., of the State Civil Service Laws of Ohio, governing positions in the unclassified service, reads in part as follows:

‘Sec. 486-8 * * * The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required in this act.

* * * *

8. Three secretaries, assistants or clerks and one personal stenographer for each of the elective state officers; and two secretaries, assistants or clerks and one personal stenographer for other elective officers and each of the principal appointive executive officers, boards or commissions, * * *

Rule III, Section 2 (a) of the Civil Service Commission reads:

‘Within thirty days after taking office, each elective officer and each principal appointive executive officer, board or commission shall designate the position for which exemption from the competitive classified service is claimed under the provisions of paragraph 8, sub-section (a), of Section 486-8 of the law, and thereafter no change in the designation of exemptions claimed under this provision which would result in the separation of a classified employe from the service shall be made during the incumbency of such officer, board or commission, except after the filing of a statement of reasons for such proposed change satisfactory to the Civil Service Commission and thirty days' notice thereof in order that a proper eligible list, if none is available, may be created by competitive examination from which to fill any position classified as the result of such change. If, at the expiration of thirty days after taking office, exemptions have not been designated by the appointing officer, board or commission as herein provided, the exemptions theretofore designated and in effect under this provision of the law shall be considered the exemptions claimed by such appointing authority and will be continued in effect’.

Section 2211 G. C., which creates the Ohio Board of Parole reads in part:

'There is hereby created and established within the department of public welfare the board of parole to be composed of four members appointed by the director of public welfare with the approval of the governor within thirty days after this act goes into effect * * *'.

Section 2211-33 of this law reads:

'The board of parole may appoint a secretary, whose duties shall be prescribed by the board. It shall also appoint the necessary social investigators, assistants, clerks and stenographers subject to the approval of the director of public welfare * * *'.

The Ohio Board of Parole is one of several bureaus and boards placed by the statutes under the authority and supervision of the Department of Public Welfare.

The Director of the Department of Public Welfare, within thirty days of assuming his office, designated the three exemptions allowed him under Section 486-8, p. 8, Rule III, Section 2. Appointments were made to fill the three exempted positions and the exemptions are now in effect.

We respectfully request your opinion on the question of whether or not the Ohio Board of Parole, appointed under Section 2211 G. C. by the Director of the Department of Public Welfare with the approval of the Governor, in selecting employees of the board is entitled to exemptions under Section 486-8, p. 8, Rule III, Section 2 of the Civil Service Laws and Rules and Regulations.

If it is held that the Ohio Board of Parole is entitled to exemptions in the appointment of employees, has the board which was appointed on August 17, 1931, authority at this time to claim exemptions?"

By virtue of the provisions of Section 2211, the Board of Parole is made a part of the Department of Public Welfare and the members of that Board are appointed by the Director of the Department of Public Welfare with the approval of the Governor. The tenure of office for each member of the Board of Parole is for a fixed and definite term (Section 2211). The Director of the Department of Public Welfare, with the approval of the Governor, may remove any member of the Board of Parole for cause as is provided in Section 2211-2. All vacancies in the Board of Parole are to be filled by the Director of the Department of Public Welfare with the approval of the Governor (Section 2211). It is provided in Section 2211-4 that the Board of Parole may appoint a secretary whose compensation shall be fixed by the Director of the Department of Public Welfare. The Board of Parole is also authorized to appoint, subject to the approval of the Director of the Department of Public Welfare, social investigators, assistants, clerks and stenographers. The same section provides that the compensation of the secretary and all other employes shall be fixed by the Director of the Department of Public Welfare.

In view of these provisions, I am of the opinion that the Board of Parole is not a principal appointive Board within the meaning of Section 486-8-a-8. The phrase "principal appointive board" in Section 486-8-a-8 was not intended to include a board whose members are the appointees of a principal appointive executive officer, such as the Director of the Department of Public Welfare.

Inasmuch as the Board of Parole is not a principal appointive board within the meaning of Section 486-8-a-8, it is not necessary to answer your second question.

Specifically answering your inquiry, I am of the opinion that the Board of

Parole is not a principal appointive board within the meaning of that phrase as contained in Section 486-8-a-8 and that such board is not entitled to any of the personal exemptions from the classified service of the State of Ohio allowed to elective state officers and principal appointive executive officers, boards and commissions by Section 486-8-a-8.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4597.

APPROVAL, BONDS OF MAHONING COUNTY, OHIO—\$400,000.00.

COLUMBUS, OHIO, September 7, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

4598.

APPROVAL, BONDS OF YOUNGSTOWN CITY SCHOOL DISTRICT, MAHONING COUNTY, OHIO—\$144,000.00.

COLUMBUS, OHIO, September 7, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

4599.

CLOSED SCHOOL—DISTRICT BOARD OF EDUCATION MUST REOPEN SCHOOL UPON FILING OF PROPER PETITION.

SYLLABUS:

The duty of a district board of education to reopen a school which has been suspended by authority of Section 7730, General Code, upon the filing of a proper petition therefor as provided by the statute, is mandatory and that duty is not in any wise affected or limited by the terms of Section 7600, General Code.

COLUMBUS, OHIO, September 8, 1932.

HON. J. S. HARE, *Prosecuting Attorney, New Philadelphia, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

“The pupils attending what is known as the Goosefoot school within Clay Township were transferred to the Gnaden-Clay Village School District thus being required to attend school in Gnadenhutten, Ohio. The