

Note from the Attorney General's Office:

1969 Op. Att'y Gen. No. 69-153 was overruled in part
due to statutory amendment by
2017 Op. Att'y Gen. No. 2017-013.

OPINION NO. 69-153**Syllabus:**

Sections 325.01 and 325.17, Revised Code, require common pleas judges, prosecuting attorneys and county commissioners to be paid biweekly. Since there is no statutory authority specifying when the employees of these officers shall be paid, it is, therefore, such officers' sole responsibility to voucher their salaries or wages for payment at reasonable intervals.

To: Bernard W. Freeman, Huron County Pros. Atty., Norwalk, Ohio
By: Paul W. Brown, Attorney General, November 21, 1969

Your request for my opinion reads as follows:

"Section 325.17 of the Revised Code establishes biweekly pay for County employees, effective on November 14, 1969. In it, it refers to the officers mentioned in Section 325.27 as the ones who would be paid biweekly. The officers listed in 325.27 are the employees of the Auditor, Treasurer, Probate Judge, Sheriff, Clerk of Courts, Engineer and Recorder. I have been asked to get your opinion as to the method of paying employees of the Prosecuting Attorney, Common Pleas Court and County Commissioners. I assume that they would be on a semimonthly basis. I further assume that all elected officials would be paid on a semimonthly basis. Therefore my question is this:

"Do the elected County officials and employees of the County Commissioners, County Prosecutor and Common Pleas Judge still remain on a semimonthly payroll basis?"

The pertinent part of Section 325.17, Revised Code, as it became effective November 14, 1969, reads as follows:

"The officers mentioned in section 325.27 of the Revised Code may appoint and employ the necessary deputies, assistants, clerks, bookkeepers, or other employees for their respective offices, fix the compensation of such employees and discharge them, and shall file certificates of such action with the county auditor. Such compensation shall not exceed, in the aggregate, for each office, the amount fixed by the board of county commissioners for such office. When so fixed, the compensation of each such deputy, assistant, bookkeeper, clerk, and other employee shall be paid biweekly from the county treasury, upon the warrant of the auditor.* * *"

The officers mentioned in Section 325.27, Revised Code, are the county auditor, county treasurer, probate judge, sheriff, clerk of the court of common pleas, county engineer and county recorder as you stated in your request.

Your last assumption is incorrect. Section 325.01, Revised Code, as amended in 1965, now provides that the officials named therein be paid in the same manner as county employees are required to be paid by Section 325.17, Revised Code. It reads as follows:

"Each county auditor, county treasurer, clerk of the court of common pleas, sheriff, county recorder, county commissioner, prosecuting attorney, and coroner shall receive, out of the general county fund, the annual salary provided by sections 325.03 to 325.11, inclusive, and 325.15 of the Revised Code, payable in the same manner as provided for county employees in section 325.17 of the Revised Code."

Before amendment, Section 325.17, supra, permitted the board of county commissioners, at their discretion, to require payment to employees of officials mentioned in Section 325.27, Revised

Code, either semimonthly or biweekly. The board of county commissioners is no longer allowed a discretionary choice in the matter.

Looking to the authority to hire employees, the county auditor has the power granted in Section 319.05, Revised Code, to employ one or more deputies, but there is no provision for time for payment of salary. The same power is granted to the sheriff, treasurer, and recorder in Sections 311.04, 321.04, and 317.05, Revised Code, respectively. The county engineer is empowered to pay employees by Section 315.21, Revised Code, but nothing is said about payroll periods.

There is no statutory provision specifying payroll periods for employees of the county offices of which you inquire. The responsibility to employ personnel carries with it a like responsibility, by implication, to voucher the salaries or wages of such personnel for payment.

Therefore, it is my opinion and you are hereby advised that Sections 325.01 and 325.17, Revised Code, require common pleas judges, prosecuting attorneys and county commissioners to be paid biweekly. You are also advised that there is no statutory authority specifying when the employees of these officers shall be paid. It is, therefore, such officers' sole responsibility to voucher their salaries or wages for payment at reasonable intervals.