

**OPINION NO. 72-035****Syllabus:**

A political subdivision of the State is a limited geographical area wherein a public agency is authorized to exercise some governmental function, as contrasted to an instrumentality of the State, which is a public agency with state-wide authority.

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**To: William E. Garnes, Administrator, Ohio Bureau of Employment Services,  
Columbus, Ohio**  
**By: William J. Brown, Attorney General, May 5, 1972**

I have before me your request for my opinion, which reads as follows:

"As you are aware the Ohio Unemployment Compensation Law, Chapter 4141. et seq., has recently been amended. Said amendments have raised a question of statutory interpretation on which I would like your opinion.

"Specifically the law provides in Section 4141.01 (A) (1) that 'Employer' means the state or any of its instrumentalities \* \* \*." The law further provides in Section 4141.01 (A) (6) (a):

"Any political subdivision which operates one or more hospitals shall cover, under Chapter 4141 of the Revised Code, services performed by employees of said hospitals, \* \* \* Any political subdivision may elect to cover, under Chapter 4141. of the Revised Code, services performed by employees of the political subdivision, or any services performed by employees of all institutions of higher education operated by such political subdivision, or any services performed by employees of all institutions of higher education operated by such political subdivision. \* \* \*"

"Thus it appears that the employees of the State and its instrumentalities are mandatorily covered by Chapter 4141. et seq. as amended but that employees of political subdivisions are only covered if the particular political subdivision elects to cover them as provided in Section 4141.01 (A) (6) (a). However, the term 'the state and its instrumentalities' and the term 'political subdivision' are not defined in the statute.

"The particular question for which I am requesting your opinion is what are the distinguishing characteristics of an instrumentality of the State as opposed to a Political Subdivision. The Bureau must classify the various governmental units within the State of Ohio as either the state or its instrumentalities or in the alternative a political subdivision.

"In order for the Bureau to properly classify the aforementioned governmental units we require your opinion as to the distinguishing characteristics of the two units."

There is no general statutory definition of "political subdivision", although there are definitions for specific purposes. See, for example, Sections 9.82, 3501.01 (F), and 5915.01 (F), Revised Code. These definitions are in the form of enumerations rather than general principles. For example, Section 3501.01, supra, reads in pertinent part as follows:

"As used in the sections of the Revised Code relating to elections and political communications as set forth in section 3399.09 of the Revised Code:

\* \* \* \* \* \* \* \* \*

"(P) 'Political subdivision' means 'county', 'township', 'city', 'village', or 'school district.'"

The case law and the Opinions of my predecessors do provide a general definition: A political subdivision is a limited geographical area of the State, within which a public agency is authorized to exercise some governmental function. In Opinion No. 2936, Opinions of the Attorney General for 1962, my predecessor advises that a local school district is a political subdivision for certain purposes, stating, at page 265, as follows:

"Coming now to the question of whether a local school district is a political subdivision of the State within the purview of Section 5923.05, \* \* \* [Revised Code], your attention is once again called to Opinion No. 1736, \* \* \* [Opinions of the Attorney General for 1960], the syllabus of which is quoted above, and which opinion contains the following statement at pages 626 and 627:

"There appears to be no statutory definition of 'political subdivisions' as used in Section 5923.05, \* \* \* [Revised Code], and although I have made an extensive search of the case law in Ohio dealing with this subject, I have been unable to find any court decision which directly answers this question. In the case of Holf v. City of Columbus, 98 Ohio App., 333, however, the court, in dealing with a similar question, stated on page 336:

"In 72 Corpus Juris Secundum, 223, we find the term 'political subdivision' defined as follows:

"The term is broad and comprehensive and denotes any division of a state made by the proper authorities thereof, acting within their constitutional powers, for the purpose of carrying out those functions of the state which by long usage and inherent necessities of government have always been regarded as public; a division of a parent entity for some governmental purpose."

"\* \* \* \* \*"

"\* \* \* In their public capacity they function as agents or instrumentalities of the state government and therefore constitute political subdivisions."

"Also, in my Opinion No. 1156, Opinions of the Attorney General for 1960, page 111, in which I was considering whether a port authority could be considered a political subdivision within the sales tax exemption law, I stated at page 112:

"A 'political subdivision' of the state must, therefore, refer to (1) a limited geographical area within the state, (2) wherein a public agency is authorized by law to exercise some governmental function."

Consequently, the distinction between an instrumentality of the State and a political subdivision turns on the geographical area of the agency's authority: If state-wide, the agency is a governmental instrumentality; if confined to a district or other limited area, the agency is a political subdivision.

The statutory definitions of "political subdivision" for specific purposes do not contradict this general definition. The specific units they list as "political subdivisions" are included within the general definition. See, for example, Section 3501.01 (P), *supra*. It is true that there is some confusion of this term with governmental instrumentality, as, for example, in Section 5713.081, Revised Code, which includes state universities in its definition of "political subdivisions", although the authority of the university board of trustees is not confined to a district. However, the provisions of that Section apply to governmental instrumentalities as well as to political subdivisions, so that no distinction between them is required for its purposes. The fact that there is seldom a need to make the distinction probably accounts for such occasional confusion of the two terms. The possibility of confusion must, however, not be discounted. Where, as here, there is no indication that the General Assembly attached a particular meaning to the term "political subdivision", the general definition must be relied upon. It must always be determined, however, whether the term has been used in some particular sense in any particular statute.

In specific answer to your question it is my opinion, and you are so advised, that a political subdivision of the State is a limited geographical area wherein a public agency is authorized to exercise some governmental function, as contrasted to an instrumentality of the State, which is a public agency with state-wide authority.