

OPINION NO. 90-105**Syllabus:**

For the calendar year 1985 (which affects all subsequent years), a county engineer not engaging in the private practice of engineering or surveying was entitled to compensation in the amount specified by the 1984 schedule in R.C. 325.14(A), increased by five per cent of the amount specified by the 1984 schedule, as provided in R.C. 325.14(B)(1)(a), plus an additional \$12,500, as provided in R.C. 325.14(B)(2)(a).

To: Thomas E. Ferguson, Auditor of State, Columbus, Ohio

By: Anthony J. Celebrezze, Jr., Attorney General, December 31, 1990

I have before me your request for my opinion regarding the compensation of county engineers as established by R.C. 325.14. Specifically, you ask:

For the calendar year 1985 (which affects all subsequent years), what compensation is a county engineer who does not engage in the private practice of engineering or surveying, entitled to receive?

The amount of annual compensation for a county engineer is determined by use of the schedules and formulas set forth in R.C. 325.14. Division (A) of R.C. 325.14 contains four schedules, for calendar years 1981 through 1984. These schedules divide the counties into fourteen categories, based on population, and specify the actual amount of compensation due to a county engineer in each year for each class of county. The 1984 schedule is titled "CLASSIFICATION AND COMPENSATION SCHEDULE FOR CALENDAR YEAR 1984 AND THEREAFTER." R.C. 325.14(A). In 1984, legislation was enacted to provide annual increases in compensation for the years subsequent to 1984. See 1983-84 Ohio Laws, Part II, 4937, 4950-53 (Am. Sub. H.B. 897, eff. Dec. 26, 1984).¹ Rather than specifying the amount of compensation by the use of schedules for each year, Am. Sub. H.B. 897 provided formulas to be used in computing the amount of compensation for each year. These formulas, codified in division (B) of R.C. 325.14, build from the applicable base figure prescribed by the 1984 schedule in division (A).

R.C. 325.14(B) states:

(B)(1) Notwithstanding division (A) of this section, the annual compensation for each county engineer shall be as follows:

(a) In calendar year 1985, the amount of the annual salary each such officer is entitled to receive under the 1984 schedule increased by five per cent.

[(b) through (h) provide for increases of five per cent over the amount computed under the immediately preceding subdivision for calendar years 1986 through 1992.]

¹ The 1984 legislation covered years 1985-88. R.C. 325.14 was again amended in 1988 to provide five per cent annual increases in the years 1989-92. See 1987-88 Ohio Laws, Part I, 1639, 1650-51 (Am. S.B. 452, eff. Dec. 15, 1988).

(2) A county engineer who elects not to engage in the private practice of engineering or surveying shall be compensated as follows:

(a) In calendar year 1985, an amount equal to that prescribed by division (A) of this section increased by twelve thousand five hundred dollars.

[(b) through (h) provide for increases of five percent over the amount computed under the immediately preceding subdivision for calendar years 1986 through 1992.]

During a recent audit, a question arose as to the relationship between subdivisions (B)(1) and (B)(2) with respect to the proper computation of the compensation of a county engineer who elects not to engage in private practice (hereafter referred to as a full-time county engineer) under subdivision (B)(2)(a) for the year 1985. Because the figure arrived at under (B)(2)(a) serves as the base for subsequent annual increases under (B)(2)(b)-(h), this computation is relevant not only to 1985 but to all subsequent years as well. The county involved had computed the 1985 compensation by adding \$12,500 to the base salary figure in the 1984 schedule set out in division (A). You question whether the language of division (B)(1), "[n]otwithstanding division (A) of this section, the annual compensation for each county engineer shall be..." requires that, in addition to the \$12,500 increase provided in R.C. 325.14(B)(2)(a), a full-time county engineer should also have received the five per cent increase over the 1984 schedule figures, which increase is provided in R.C. 325.14(B)(1)(a).²

Read in isolation, the words of R.C. 325.14(B)(2)(a) appear to exclude computations derived from other divisions of R.C. 325.14, since (B)(2)(a) refers only to "division (A)" and makes no mention of (B)(1)(a). See generally *Kroger Co. v. Bowers*, 3 Ohio St. 2d 76, 78, 209 N.E.2d 209, 211 (1965); *State ex rel. Boda v. Brown*, 157 Ohio St. 368, 372, 105 N.E.2d 643, 647 (1952) (recognizing the rule of statutory construction that the express mention of one thing implies the exclusion of others). It is axiomatic, however, that statutory provisions dealing with the same subject matter must be construed together, "giving effect to all portions of such statutory provisions if possible," *National Distillers Products Corp. v. Evatt*, 143 Ohio St. 99, 102, 54 N.E.2d 146, 148 (1944), and that "significance and effect should if possible be accorded every word," *Wachendorf v. Shaver*, 149 Ohio St. 231, 237, 78 N.E.2d 370, 374 (1948); R.C. 1.47(B).

When reading R.C. 325.14(B)(1) and R.C. 325.14(B)(2) together, it becomes apparent that these subdivisions do not create a dichotomy between full-time and part-time county engineers. Although (B)(2) clearly applies only to full-time county engineers, (B)(1) applies to "each engineer" without any qualification of that term. These categories are not mutually exclusive. Rather, the category of full-time county engineers created in (B)(2) is a subset included in the larger category of all county engineers identified in (B)(1). Since the five per cent increase of (B)(1)(a) applies to all county engineers "notwithstanding division (A)," the effect is to incorporate the five per cent increase into the 1984 schedule. Thus, the words "division (A)" appearing in (B)(2)(a) should be construed to include rather than exclude that five per cent. Accordingly, I conclude that the intent of the legislature, as expressed in R.C. 325.14(B)(1)(a), was to provide all county engineers, in 1985, with a pay raise of five per cent over the applicable compensation figure from the 1984 schedule of division (A) and then to provide full-time county engineers with an additional \$12,500 increase by enactment of R.C. 325.14(B)(2)(a).

² For example, the 1984 salary for a county engineer in a class 1 county (population range: 1 to 20,000) is \$27,000. R.C. 325.14(A). If the five per cent raise of R.C. 325.14(B)(1)(a) is considered as incorporated into that figure, a county engineer who elected not to engage in private practice would have been entitled \$40,850 in 1985 (\$27,000 + \$1,350 + \$12,500). If the five per cent increase of R.C. 325.14(B)(1)(a) and the \$12,500 increase of R.C. 325.14(B)(2)(a) are considered mutually exclusive, the engineer would have been entitled to \$39,500 (\$27,000 + \$12,500).

It is, therefore, my opinion, and you are hereby advised that, for the calendar year 1985 (which affects all subsequent years), a county engineer not engaging in the private practice of engineering or surveying was entitled to compensation in the amount specified by the 1984 schedule in R.C. 325.14(A), increased by five per cent of the amount specified by the 1984 schedule, as provided in R.C. 325.14(B)(1)(a), plus an additional \$12,500, as provided in R.C. 325.14(B)(2)(a).