

3858.

STATE BOARD ARCHITECT EXAMINERS—MEMBERS ENTITLED TO \$10.00 PER DIEM WHILE ACTUALLY ENGAGED IN BUSINESS OF BOARD—ANNUAL SALARY OF SECRETARY IS IN ADDITION TO PER DIEM COMPENSATION.

*SYLLABUS:*

1. *A member of the State Board of Examiners of Architects is entitled to be paid ten dollars per diem while actually engaged in carrying out the instructions of the board in the performance of the duties imposed upon such members by House Bill 282 of the 89th General Assembly.*

2. *The annual salary provided for the secretary of the board in Section 1334-2, General Code, is in addition to and not in lieu of the per diem compensation provided for the various members of such board.*

COLUMBUS, OHIO, December 16, 1931.

*State Board of Examiners of Architects, 8 East Long Street, Columbus, Ohio.*

GENTLEMEN:—Your letter of recent date is as follows:

"The State Board of Examiners of Architects has asked that I request your opinion on the following questions:

Can a member of this board be paid the per diem allowance for services rendered in carrying out the instructions of the board, alone or with one or more members of the board?

Do the provisions of the last paragraph of Sec. 1334-2, Section 3, or any other part of this statute (H. B. 282) prohibit the secretary of the board from rendering services other than attending board meetings and being paid for same at the established per diem rate?

The services hereinbefore mentioned are other than those set forth in the last paragraph of Sec. 1334-1, Section 2, and are somewhat as follows: Preparation of all application forms and files for same, form letters, card record files, examination papers; purchase of equipment; rental of office space, interviews with applicants and establishing proper contact with all state agencies who handle the affairs of the board.

It would seem that the maximum annual salary as established for the secretary would be sufficient for most of the time after the initial rush is over and the routine work well established."

Section 1334-1, General Code, provides that the secretary of the State Board of Examiners of Architects shall be a member of the board and sets forth some of the duties of the board in the following language:

"The said state board of examiners of architects shall meet for organization within sixty days after its appointment, and shall elect from its membership a president and a secretary, and also a vice president and assistant secretary, who shall act during the absence or disability of the president or secretary respectively.

The board shall adopt all necessary rules, regulations, and by-laws, not inconsistent with this act and the constitution and laws of this state or of the United States, to govern its times and places of meeting for organization and re-organization, for the holding of examinations, for fixing the length of terms of its officers, and for governing all other matters requisite to the exercise of its powers, the performance of its duties, and the transaction of its business under the provisions of this act.

The board shall hold examinations as hereinafter provided not less than twice annually, and shall issue to each successful applicant a certificate of qualification to practice architecture in the state of Ohio and shall impress on each certificate issued under the provisions of this act the seal of the state of Ohio.

The secretary of the board shall keep a true and complete record of all proceedings of the board, and may employ such clerical assistance as the board may deem necessary."

Section 1334-2, General Code, sets forth further duties of the members of the board and provides for their compensation as follows:

"The board shall be charged with the duty of enforcing the provisions of this act, and may incur such expenses as shall be necessary, providing, however, that such expenses shall not exceed the revenue derived from the fees for examinations, registration, and other sources as hereinafter provided.

All fees hereinafter provided for by the provisions of this act shall be paid to and received for by the secretary of the board, and shall be paid by him monthly into the state treasury to the credit of a separate fund to be known as the 'fund for the state board of examiners of architects.' Said fund shall be continued from year to year and, except as hereinafter provided, shall be drawn against only for the purposes of this act. Whenever, after January 1st, 1933, the net unencumbered balance in this fund on November tenth of any one year exceeds the sum of \$1,000.00, this excess amount shall be transferred to the general revenue fund.

All expenses incurred by the board shall be paid on requisitions signed by the president and secretary of the board and upon warrant of the state auditor, by the state treasurer out of the separate fund in the state treasury hereinbefore provided.

Each members of said board shall be entitled to receive, as a part of the expense of the board, ten dollars per diem while actually engaged in attendance at meetings, in conducting examinations, or in the performance of their duties under this act.

The members shall receive also, as a part of the expense of the board, the amount of actual traveling, hotel and other necessary expenses incurred in the performance of their duties under this act.

In addition to the above per diem allowance, the secretary shall receive a salary, which shall not exceed five hundred dollars per annum, paid as hereinbefore provided from the special fund hereinbefore provided. He shall give a bond to the state of Ohio in the sum of \$1,000 with two or more sureties approved by the board con-

ditioned for the faithful discharge of the duties of his office. The board may require a surety bond in which event the premium thereon shall be paid by the board. Such bond with the approval of the board endorsed thereon shall be deposited with the secretary of state and kept in his office."

From a careful reading of the fourth paragraph of the foregoing section, I think it is clear that the compensation of ten dollars per day should be paid to the various members of the State Board of Examiners of Architects, first, while actually engaged in attendance at meetings of the board, second, while actually engaged in conducting examinations of the board, and, third, while actually engaged in the performance of their duties under the law prescribing such duties, being House Bill No. 282 as enacted by the 89th General Assembly. It necessarily follows, therefore, that it is not necessary that the various members be engaged in attendance at meetings to be entitled to this allowance if such members are engaged in the performance of their duties under the act.

Under the provisions of Section 1334-2, supra, the board is charged with the duty of enforcing the provisions of the act and should the board in the performance of this duty see fit in the interests of economy and efficiency to delegate to the various members certain duties in their various cities in which they live in connection with the enforcement of the provisions of the act, the rendition of such services would in my judgment constitute the performance of their duties under the act for which the ten dollar per day compensation should be paid as set forth in Section 1334-2, General Code.

You next inquire as to whether or not the annual salary provided for the secretary in the last paragraph of Section 1334-2, supra, should be considered as compensation in lieu of the per diem compensation allowed to each member of the board in the fourth paragraph of this section. Although it might seem that where an annual salary is provided for the performance of the duties of the secretary, such salary should be construed as being in lieu of the per diem compensation provided for the other members of the board, nevertheless it is expressly provided that the secretary shall be a member of the board and it is expressly provided that the annual salary of the secretary shall be "in addition to the above per diem allowance." Under these circumstances, it is my view that the language of the statute is not subject to construction, it being obvious that the legislature intended to provide for an annual salary for the secretary in addition to and not in lieu of the per diem compensation to which he may be entitled as a member of the board. There are, of course, certain duties of the secretary as such for which I do not believe it was contemplated by the legislature he should receive his per diem compensation. I refer to the provision that the secretary "shall keep a true and complete record of all proceedings of the board." Added to this duty may very properly be the usual duty of secretaries to handle general correspondence in the usual course of business and the duty of performing perhaps other duties which the board may delegate to the secretary. The preparation of application forms, purchase of equipment, installation of card record systems, etc., which you mention and other extraordinary duties in connection with the establishment of the board as an efficient arm of the state government, do not constitute the statutory duties of the secretary as such, but rather the duties of the board and members thereof. Should the board impose these duties upon the secre-

tary, he may very properly be said to be "engaged in the performance of (his) duties under this act" as a board member, and entitled to his per diem compensation.

Summarizing and in specific answer to your questions, it is my opinion that:

1. A member of the State Board of Examiners of Architects is entitled to be paid ten dollars per diem while actually engaged in carrying out the instructions of the board in the performance of the duties imposed upon such members by House Bill 282 of the 89th General Assembly.

2. The annual salary provided for the secretary of the board in Section 1334-2, General Code, is in addition to and not in lieu of the per diem compensation provided for the various members of such board.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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3859.

TOWNSHIP TRUSTEES—UNAUTHORIZED TO PURCHASE GROUP INSURANCE FOR MEMBERS OF VOLUNTEER FIRE COMPANY.

*SYLLABUS:*

*A board of township trustees may not legally spend money for the purpose of purchasing group insurance for the members of the volunteer fire department.*

COLUMBUS, OHIO, December 16, 1931.

HON. RAYMOND E. LADD, *Prosecuting Attorney, Bowling Green, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication requesting my opinion on the following:

"The Board of Trustees of Perrysburg Township are desirous of purchasing group insurance for members of their Volunteer Fire Department.

I informed them it was my opinion inasmuch as they were an administrative board that such expenditures would in my opinion be illegal, as your Department has ruled on numerous occasions that Volunteer Fire Department members are employes and protected under the Workmen's Compensation Act.

I have found numerous opinions to the effect that Villages and municipalities may purchase group insurance for their firemen, but no opinion as to the right of a Board of Township Trustees to furnish such protection for their firemen. I am not unmindful of an opinion by the Attorney General's office that a Board of Education could not purchase group insurance for its teachers, but find that your Department has also recently held that a Board of Trustees may pur-