

OPINION NO. 90-108**Syllabus:**

1. A board of elections member does not serve on a "full-time" basis, as that term is commonly understood. (1986 Op. Att'y Gen. No. 86-077, syllabus, paragraph one, approved and followed.)
2. A board of elections may not, after a board member's term has begun, authorize the procurement of insurance for that member under R.C. 3501.141(B) to commence during his term of office.

To: Kevin J. Baxter, Erie County Prosecuting Attorney, Sandusky, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, December 31, 1990

I have before me your opinion request concerning members of a county board of elections. I have restated your questions as follows:

1. Are county board of elections members, who are appointed pursuant to R.C. 3501.06, considered full-time or part-time?
2. May county board of elections members receive health benefits, pursuant to R.C. 3501.141(B), commencing in the middle of their terms?

In 1986 Op. Att'y Gen. No. 86-077, I had occasion to consider the status of board of elections members and employees for purposes of the receipt of a number of fringe benefits provided by statute. I concluded in the first paragraph of the syllabus that: "Members of a board of elections do not perform the duties of their office on a full-time basis for purposes of R.C. 124.13, and, therefore, are not entitled to receive vacation leave benefits pursuant to the terms of that section."

In discussing whether members of a board of elections are entitled to receive vacation leave benefits under R.C. 124.13 as "full-time state employees," I limited my inquiry to whether board of elections members may be considered to perform their duties on a full-time basis. I noted that the common meaning of "full-time" is set forth in *Webster's New World Dictionary* 564 (2d college ed. 1978), as "designating, of, or engaged in work, study, etc. for specified periods regarded as taking all of one's regular working hours."

Upon examination of R.C. Chapter 3501, concerning the appointment and duties of members of county boards of elections, several factors compelled me to conclude in Op. No. 86-077 that board of elections members do not perform their duties on a full-time basis. First, in contrast with other public positions which are designated by statute as full-time positions, nothing in R.C. Chapter 3501 states that board of elections members shall hold their offices on a full-time basis or devote their entire time to their duties. Rather, the duties of the board members with respect to the conduct of elections coupled with the infrequency of elections suggest that the performance of such duties would not require the members to render service on a full-time basis. Further, the method by which compensation for board members is fixed and the range within which such compensation is set suggest that no member is expected to render full-time service in his position as board member.

Since you have not stated that you are concerned with the interpretation of a particular statute, the context of which may require a different reading of the term "full-time," I can only restate the foregoing analysis, as set forth in Op. No. 86-077, and hereby approve and follow the conclusion stated in the first paragraph of the syllabus of that opinion.

Your second question asks whether members of boards of elections may receive insurance under R.C. 3501.141(B) where such insurance is to commence mid-term. R.C. 3501.141(B) states:

The board of elections of any county may procure and pay all or any part of the cost of group hospitalization, surgical, major medical, or sickness and accident insurance or a combination of any of the foregoing types of insurance or coverage for the members appointed to the board of elections under [R.C. 3501.06] and their immediate dependents *when each member's term begins*, whether issued by an insurance company or a health or medical care corporation, duly authorized to do business in this state. (Emphasis added.)

Pursuant to R.C. 3501.06, in each county there is a board of elections, consisting of four qualified electors of the county. The board of elections obtains its authority and incurs its duties pursuant to statute. *State ex rel. Rose v. Ryan*, 119

Ohio App. 363, 200 N.E.2d 668 (Franklin County 1963). The extent of the board's authority to provide insurance coverage for its members pursuant to R.C. 3501.141(B) is limited by the language stating that the board may procure such insurance "when each member's term begins." In light of this express limitation contained in the language of R.C. 3501.141(B), I must conclude that a board of elections is without authority to obtain insurance for any board member under the authority of this subdivision of the statute at any time other than at the beginning of such member's term.

In addition, I note that the court in *State ex rel. Milburn v. Pethel*, 153 Ohio St. 1, 90 N.E.2d 686 (1950), concluded, in part, in syllabus, paragraph three, that board of elections members are "officers whose compensation is subject to the provision of [Ohio Const. art. II, §20], which precludes a change of compensation of any officer during his existing term." Further, payments for health insurance premiums on behalf of a public officer are part of the officer's compensation for purposes of art. II, §20. *State ex rel. Parsons v. Ferguson*, 46 Ohio St. 2d 389, 348 N.E.2d 692 (1976). Thus, in order to read R.C. 3501.141(B) in accordance with the limitations imposed by Ohio Const. art. II, §20, the board of elections may procure insurance under R.C. 3501.141(B) on behalf of one of its members only at the commencement of the board member's term.

Based on the foregoing, it is my opinion, and you are hereby advised that:

1. A board of elections member does not serve on a "full-time" basis, as that term is commonly understood. (1986 Op. Att'y Gen. No. 86-077, syllabus, paragraph one, approved and followed.)
2. A board of elections may not, after a board member's term has begun, authorize the procurement of insurance for that member under R.C. 3501.141(B) to commence during his term of office.