

**OPINION NO. 66-010****Syllabus:**

Sections 143.01 to 143.48, inclusive, Revised Code, do not apply to a city school district which does not contain a city.

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**To: E. E. Holt, Superintendent, State Department of Education, Columbus, Ohio**  
**By: William B. Saxbe, Attorney General, January 10, 1966**

Your request for my opinion reads as follows:

"Section 3311.02 of the Revised Code was amended by Amended House Bill No. 286 so as to include the following language:

'An exempted village school district which includes within its boundaries all or part of two or more municipal corporations, the aggregate population of which total 5,000 or more as determined by the preceding federal census may, with the approval of the State Board of Education, become a city school district.'

"Section 143.08 of the Revised Code provides in part that:

'The civil service of the state and the several counties, cities, city health district and city school districts thereof shall be divided into the unclassified service and the classified service.'

"Section 143.30 of the Revised Code provides for the method of appointment of a municipal civil service commission and establishes the powers of a municipal civil service commission. However, this section provides for the establishment of a municipal civil service commission only in cities. Thus, the enactment of Amended House Bill No. 286 provides for the establishment of city school districts which do not contain a city and hence no city civil service commission.

"Sections 3319.081, 3319.082 and 3319.083 of the Revised Code, relating to employment of non-certificated or non-teaching employees, are each prefaced with the following language:

'In all school districts wherein the provisions of Sections 143.01 to 143.48 inclusive of the Revised Code do not apply \* \* \*.'

"May I have your opinion on the question of whether Sections 143.01 to 143.48 inclusive of the Revised Code apply to a city school district which does not contain a city."

In your letter you state that Section 143.30, Revised Code, provides only for the establishment of a municipal civil service commission in cities. This statement is essentially accurate. This section provides in pertinent part as follows:

"The mayor or other chief appointing authority of each city in the state shall appoint three persons, one for a term of two years, one for four years, and one for six years, who shall constitute the municipal civil service commission of such city and of the city school district and city health district in which such city is located.\* \* \*"

(Emphasis added)

Chapter 143 of the Revised Code is the chapter which provides for the establishment of civil service protection in the state, counties and municipalities. Section 143.30, supra, creates a Municipal Civil Service Commission whose function is to prescribe, amend, and enforce rules not inconsistent with Sections 143.01 to 143.48, inclusive, Revised Code. Therefore, it seems obvious that if, as in the situation envisioned in Section 3311.02, Revised Code, there is no commission to enforce Chapter 143, supra, then Sections 143.01 to 143.48, inclusive, supra, do not apply to a city school district which does not contain a city. Further, there can be no civil service commission if there is no person having the power to appoint members who would comprise such a commission. This is exactly the situation confronted with in the case of an exempted village school

district. The reason for this is that there is no mayor or other chief appointing authority in such a district to appoint members to such a commission. Concededly, each one of the municipal corporations referred to in Amended House Bill 286 has a mayor or other chief appointing authority. However, this does not mean that a fortiori the exempted village school district has an appointing authority. Section 143.30, supra, is clear; the mayor or other chief appointing authority of each city in the state are the individuals vested with the power to appoint a Municipal Civil Service Commission. Consequently, if there is no appointing authority there can be no commission, and if there is no commission to enforce Chapter 143, supra, then Sections 143.01 to 143.48, inclusive, supra, do not apply in the situation to which you refer in your letter.

Further, when Section 143.30, supra, refers to city school or health districts, it qualifies those terms by the phrase "in which such city is located." On this basis the only logical inference which can be drawn is that city school and health districts must be at least partially within a city.

Just exactly what constitutes a city has been statutorily defined. In Article 18, Section I of the Ohio Constitution it is provided that all municipal corporations having a population of 5,000 or more shall be cities and that all other municipal corporations shall be villages. Further, Section 703.01, Revised Code, prescribes that municipal corporations which at the last federal census had a population of 5,000 or more, or 5,000 registered resident electors or resident voters, as provided in Section 703.011, Revised Code, are cities; and that all other municipal corporations are villages.

Therefore, it is my opinion and you are accordingly advised that Sections 143.01 to 143.48, inclusive, Revised Code, do not apply to a city school district which does not contain a city.