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1. EMPLOYEES—BUREAU OF UNEMPLOYMENT COMPENSATION—SECTION 154-20 G. C. HAS NO APPLICATION.
2. ADMINISTRATOR HAS LEGAL POWER TO DEFINE WORKING HOURS OF ITS EMPLOYEES.

Columbus, Ohio, March 25, 1946,

Bureau of Unemployment Compensation
Columbus, Ohio

SYLLABUS:

1. Section 154-20, General Code, has no application to employees of the Bureau of Unemployment Compensation.
2. The Administrator of the Bureau of Unemployment Compensation has the legal power to define the working hours of the employees of the Bureau.

Gentlemen :

I am in receipt of your request for my opinion which reads as follows :

“Your opinion is respectfully requested on the following question :-

‘Does the Administrator of the Bureau of Unemployment Compensation have the legal power and authority to establish a work schedule in the Bureau whereby the four hours usually worked on Saturday morning of each week shall be worked on Monday through Friday of such week by increasing the work time by forty-eight minutes on each of said five days, the Bureau offices to be kept open on each Saturday morning from eight a. m. to twelve noon, and to be staffed with sufficient personnel to render adequate service to the public?’

By this schedule, it is apparent that there will be no reduction in the number of hours worked each week, the four hours on Saturday being equally distributed among the other five days of such week.

It is the judgment of the Administrator, after considering all of the operations of the Bureau, that the schedule as outlined will increase production, improve personnel morale, tend to reduce

absenteeism and personnel turnover, is in line with proper and efficient administration of the Unemployment Compensation Law, and the public service will not thereby be impaired.”

The provisions of law which deal generally with the hours of labor of state employees are set out in Section 154-20, General Code. Said section which is a part of the so-called administrative code enacted in 1921 (109 O. L. 105) reads in part as follows:

“All employees in the several departments of the state service, except the state highway department, shall render not less than eight hours of labor each day, Saturday afternoons, Sundays and days declared by law to be holidays excluded, except in cases in which in the judgment of the director, the public service will not thereby be impaired.”

It will be noted, however, that the above section provides that “*all employees in the several departments of the state service * * ** shall render not less than eight hours of labor each day, Saturday afternoons, Sundays and days declared by law to be holidays excluded.” In view of such language it becomes necessary to determine whether or not the Bureau of Unemployment Compensation is one of the “departments of the state service.” Reference to Section 154-2, General Code, discloses that the word “department” is defined therein. Said section reads as follows:

“As used in this chapter:

‘Department’ means the several departments of state administration enumerated in section 154-3 of the General Code.

‘Division’ means a part of a department established as provided in section 154-8 of the General Code, for the convenient performance of one or more of the functions committed to a department by this chapter.

The phrase ‘departments, offices and institutions’ includes every organized body, office and agency established by the constitution and laws of the state for the exercise of any function of the state government, and every institution or organization which receives any support from the state.”

Section 154-3, General Code, referred to in the above section reads as follows:

“The following administrative departments are created:

The department of finance, which shall be administered by the director of finance, hereby created ;

The department of commerce, which shall be administered by the director of commerce, hereby created ;

The department of public works, which shall be administered by the superintendent of public works as director thereof ;

The department of highways, which shall be administered by the director of highways, hereby created ;

The department of agriculture, which shall be administered by the director of agriculture, hereby created ;

The department of health, which shall be administered by the director of health, hereby created ;

The department of industrial relations, which shall be administered by the director of industrial relations, hereby created ;

The department of education, which shall be administered by the superintendent of public instruction, as director thereof ;

The department of public welfare, which shall be administered by the director of public welfare, hereby created ;

The department of liquor control which shall be administered by the director of liquor control.

The director of each department shall, subject to the provisions of this act, exercise the powers and perform the duties vested by law in such department."

Where the legislature has seen fit to exercise its power to define the sense in which words are employed in a statute, the legislature's own construction of its language should be followed in the interpretation of the section to which it is intended to apply. 37 O. J. 283. It will be noted that the Bureau of Unemployment Compensation is not one of the departments enumerated in Section 154-3, General Code. The Bureau of Unemployment Compensation, therefore, is not a department under the terms of the legislative definition of that word as it is used in Section 154-20, General Code.

Nor is the Bureau of Unemployment Compensation a division within the legislative definition of that term. A division, according to Section 154-2, General Code, quoted above, is "a part of a department established as provided in Section 154-8, General Code." The Bureau of Unemploy-

ment Compensation was neither established pursuant to the terms of Section 154-8, General Code, nor attached to a department under the statutes providing for its creation.

Section 154-2, General Code, provides for the use of the phrase "departments, offices and institutions" when reference is made to "every organized body, office and agency established by the constitution and laws of the state for the exercise of any function of the state government." The Bureau of Unemployment Compensation, under this definition, is one of the "departments, offices and institutions." In view of this it would certainly seem reasonable to assume that if the legislature had intended to subject the Bureau of Unemployment Compensation to the provisions of Section 154-20, General Code, it would have used the phrase "departments, offices and institutions" in that section instead of the words "several departments of the state service."

The Ninety-Sixth General Assembly enacted House Bill No. 221 which amended Section 154-20, General Code, effective October 11, 1945. This amendment might be considered pertinent to your inquiry only in respect to its addition of the phrase "of the state service" to follow the words "several departments." In view of the retention of the word "departments," with its established meaning, the inclusion of the phrase "of the state service" can not be considered as broadening the class of employees to which Section 154-20, General Code, has application. Consequently, the above quoted provisions from Section 154-20, General Code, have no application to employees of the Bureau of Unemployment Compensation.

Section 1346, General Code, creates the Bureau of Unemployment Compensation and the office of Administrator of the Bureau of Unemployment Compensation.

Section 1345-13, General Code, assigns to the Administrator of the Bureau of Unemployment Compensation certain powers and provides in part as follows:

"(a) In addition to all other duties imposed on the administrator and powers granted by the provisions of this act, the administrator shall have full power: * * *

(2) To employ, subject to the civil service laws of this state, secretaries, deputies, accountants, managers of district offices, clerks, stenographers, and other assistants that may be required for the administration of the provisions of this act, *and to determine their salaries and duties;*" (Emphasis added.)

Of course, this section would not exempt the Administrator of the Bureau of Unemployment Compensation from complying with the terms of a statute designed to regulate the hours of the employees of the Bureau. But an examination of the statutes of Ohio fails to disclose any provision which is by its terms related to this matter. In the absence of such a provision it is within the province of the Administrator of the Bureau of Unemployment Compensation to prescribe the working hours of the employees of the Bureau.

It is therefore my opinion, in specific answer to your inquiry, that your proposed change in working hours is not in contravention of law.

Respectfully,

HUGH S. JENKINS,
Attorney General