

approval is evidenced by my authorized signature upon said lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2256.

CITY HEALTH DISTRICT—EMPLOYES OF SUCH DISTRICT DO NOT
COME WITHIN THE PROVISIONS OF CIVIL SERVICE ACT.

SYLLABUS:

Employes of a city health district do not come within the provisions of the civil service act (Section 486-1 to 486-31 of the General Code, inclusive).

COLUMBUS, OHIO, August 23, 1930.

HON. CHARLES A. NEAL, *Director of Health, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your letter of recent date, which is as follows:

“I am in receipt of a request from a city solicitor asking for an opinion as to whether or not employes of a city health district are within the civil service laws as now provided for in the General Code, and if so, whether or not they come within the classified or unclassified service.

I shall be very glad if you will give this Department your opinion on these questions.”

Section 1261-16 of the General Code provides that for the purposes of local health administration, the state be divided into health districts and that each city shall constitute a health district and be known as a city health district, and that townships and villages in each county shall be combined into a health district and be known as a general health district.

Section 1261-20 of the General Code provides the necessary procedure for the union of city and general health districts.

Section 1261-21 of the General Code provides the necessary procedure for the union of two or more general health districts.

In Section 1261-30, General Code, it is provided that the district boards of health shall exercise all the powers and perform all the duties now conferred and imposed by law upon the board of health of a municipality, etc.

It will be further observed that Section 1261-39, General Code, makes provision whereby financial aid may be given to health districts by the state and Section 1261-40 of the General Code provides for the apportionment and the creation of a separate fund to be known as the “district health fund.”

It appears from an examination of these sections and other related sections that a municipal health district is a separate political entity. This view was recently expressed by me in an opinion rendered to you under date of February 4, 1930, in which I held that an ordinance passed by a municipality to the effect that any appointee receiving pay from the city must be a bona fide resident of the city, has no application to appointees of city health districts. In this opinion it was stated by me that a city health district is a separate entity from the municipal government, although it em-

braces the same territory. This view is supported by an opinion of a former Attorney General, found in Opinions of the Attorney General, 1920, Vol. 1, page 133. In the course of this opinion the then Attorney General, commenting upon the Hughes act, 108 O. L. (part 1), 236, Sections 1261-16, et seq., and the Griswold act, 108 O. L. (part 2), 1085, which amended it, says:

"In the division of the state for health purposes, the district was made the unit and city and county lines were adopted for its territorial definition.

What might be termed a new quasi-political subdivision was created somewhat analogous to school districts, or, so far as a city of the required population was concerned, it might be said that it then had a dual interlocking capacity. It constituted a municipal health district and its city council was empowered to establish a municipal health district board of health, while the duty and method of raising the necessary funds for this health district was not changed by the act, showing the interdependent character of the district and the municipality. The idea of separate identity is further indicated by the fact that by Section 1261-38 the treasurer and auditor of the city are specifically designated as the treasurer and auditor of the health district."

It may be urged that a city health district is merely a division of the state for administrative purposes, that is, that the employes of a district perform ministerial duties in the performance of state functions. The statutes dealing with health districts clearly provide distinct and independent functions for the district boards of health from those of the state department of health. The state department of health is only authorized to perform the duties imposed by statute upon a district board of health when the district board of health fails or neglects to perform its duties. The district board of health is in the same category as school districts and metropolitan park districts and is distinguished from districts which are provided for the purpose of performing administrative functions for the state in a particular locality.

Since I have concluded that a city health district is a distinct political entity I now come to a consideration of the civil service statutes with reference to their application to such a district. Section 486-1 of the General Code provides in part as follows:

"The term civil service includes all offices and positions of trust or employment in the service of the state and the counties, cities and city school districts thereof. * * * "

This section and related sections of the General Code were enacted pursuant to the provisions of Section 10, Article XV of the Constitution of Ohio, which reads as follows:

"Appointments and promotions in the civil service of the state, the several counties and cities, shall be made according to merit and fitness, to be ascertained, as far as practicable, by competitive examinations. Laws shall be passed providing for the enforcement of this provision."

By the terms of Section 486-1 of the General Code, above quoted, the Legislature limited the application of the civil service laws to offices and positions of trust or employment in the service of the state and the counties, cities and city school districts. It therefore follows that offices and positions which are not in the service of the state or one of the political subdivisions named in Section 486-1, General Code, are not included.

In an opinion rendered by a former Attorney General on July 11, 1916, and found in Volume II, Opinions of the Attorney General for 1916, page 1186, it was held as follows:

“Offices, positions and employments in villages and village school districts are not included in the operation of the civil service law of this state.”

The then Attorney General said in the course of his opinion, at page 1187, as follows:

“This paragraph specifies what offices, positions and employments are included in the civil service law of the state and it is exclusive. It will be observed that it does not include offices or positions in villages, or village school districts. It follows, therefore, that the position held by the janitor named in your inquiry is not within the operation of the civil service law, and said janitor is not entitled to its protection or to hold his position under any of its provisions, including the provision of Section 486-31 G. C., as amended 106 O. L. 418, referred to in your inquiry and commonly known as the seven-year service clause.”

Since the Legislature has not seen fit to include city health districts within the provisions of the civil service laws, I am therefore of the opinion that employes of a city health district do not come within the provisions of the civil service act (Section 486-1 to 486-31 of the General Code, inclusive).

Respectfully,

GILBERT BETTMAN,

Attorney General.

2557.

CIVIL SERVICE ACT—OFFICERS AND EMPLOYEES OF EXEMPTED VILLAGE, VILLAGE, RURAL AND COUNTY SCHOOL DISTRICTS ARE NOT WITHIN.

SYLLABUS:

The officers and employes of exempted village school districts, village school districts, rural school districts and county school districts do not come within the provisions of the civil service act (Sections 486-1 to 486-31, inclusive, General Code.)

COLUMBUS, OHIO, August 23, 1930.

The State Civil Service Commission of Ohio, Wyandotte Building, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your letter of recent date which is as follows:

“We are in receipt of the following inquiry from the Ohio State Association of Public School Employes in regard to Section 486-(a)-8 of the Civil Service Laws of Ohio, upon which we desire to respectfully request your opinion:

‘Does this law apply to all boards of education in the State of Ohio, i. e. county boards of education, village boards of education, etc.’”

Civil service legislation of this state is contained in Sections 486-1 to 486-31,