

## OPINION NO. 86-110

## Syllabus:

Pursuant to R.C. 171.02, the Ohio Retirement Study Commission may promulgate a rule authorizing the vice-chairman of the Commission, in the event of the incapacity of the chairman, to sign expense vouchers on behalf of the chairman.

To: Charles H. Weston, Jr., Director, Ohio Retirement Study Commission,  
Columbus, Ohio

By: Anthony J. Celebrezze, Jr., Attorney General, December 23, 1986

I have before me your opinion request concerning the authority of the vice-chairman of the Ohio Retirement Study Commission to act in the capacity of the chairman upon the chairman's death. Specifically, you ask whether, in such a situation, the vice-chairman may act in the capacity of the chairman and sign all vouchers for the conduct of the Commission's business.

The Ohio Retirement Study Commission is created and governed by R.C. Chapter 171. R.C. 171.02 specifically provides for the Commission, at its first meeting, to organize "by selecting a chairman, a vice-chairman, and such other officers as it deems necessary." One of the duties of the chairman is set forth in R.C. 171.05 which states in pertinent part: "The compensation of all employees of the Ohio retirement study commission and other expenses of the commission shall be paid upon vouchers signed by the director and the chairman of the commission." Thus, by statute, vouchers for the payment of Commission expenses are to be signed by the Commission's director and chairman.

R.C. 171.02, however, further provides: "The commission shall adopt rules for the conduct of its business and the election of its officers...." See generally R.C. 111.15 (concerning the promulgation of, among other things, internal management rules of state agencies); State ex rel. Board of Education v. Holt, 174 Ohio St. 55, 186 N.E.2d 862 (1962) (syllabus, paragraph one) ("[n]o rule or regulation of the School Employees Retirement System shall be effective unless promulgated and filed in accordance with the provisions of [R.C. 111.15]"); 1979 Op. Att'y Gen. No. 79-088; 1 Ohio Admin. Code Chapters 103-1 to 103-5. The Rules of the Ohio Retirement Study Commission, a copy of which was attached to your opinion request, specifically state in division II:

1. The Chairman shall preside at all Commission meetings. The Chairman may call upon the Vice-Chairman to preside over any meeting. He shall

sign minutes after their approval. He may appoint committees.

2. The Vice-Chairman shall preside in the event of the absence or incapacity of the Chairman or upon the request of the Chairman. He shall, in the event of the incapacity of the Chairman, perform all of the duties of the Chairman established by law and these rules. (Emphasis added.)

Thus, pursuant to the Commission's rules, the vice-chairman is empowered to perform all of the duties of the chairman in the event of the incapacity of the chairman.

It is well settled that: "Where by statutory authority an administrative agency...promulgates rules and regulations governing its activities and procedure, such rules are valid and enforceable unless they are unreasonable or in conflict with statutory enactments covering the same subject matter." State ex rel. DeBoe v. Industrial Commission, 161 Ohio St. 67, 117 N.E.2d 925 (1954) (syllabus, paragraph one); State ex rel. Kildow v. Industrial Commission, 128 Ohio St. 573, 192 N.E. 873 (1934).

As noted above, R.C. 171.02 specifically provides for the selection of a vice-chairman of the Commission. The powers and duties of the vice-chairman are not, however, defined by statute. Since a vice-chairman is generally understood to mean a person who may act in the place of the chairman, see generally Webster's New World Dictionary 1582 (2d college ed. 1978) (defining the prefix "vice-" as meaning in part, "one who acts in the place of"), it appears reasonable for the Commission to promulgate rules authorizing the vice-chairman, in the event of the incapacity of the chairman, to act in the chairman's stead, in order to carry on the business of the Commission, including the duty imposed upon the chairman of the Commission by R.C.171.05 of signing vouchers.

Based on the foregoing, it is my opinion, and you are hereby advised, that pursuant to R.C. 171.02, the Ohio Retirement Study Commission may promulgate a rule authorizing the vice-chairman of the Commission, in the event of the incapacity of the chairman, to sign expense vouchers on behalf of the chairman.