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1. SALARY AND WAGE RANGES—SECTION 486-7a3 G. C. AMENDED BY SUBSTITUTE HOUSE BILL 450, 99th GENERAL ASSEMBLY, BECOMES EFFECTIVE AS TO EMPLOYEES OF STATE SUPPORTED COLLEGES AND UNIVERSITIES AS SOON AFTER EFFECTIVE DATE OF ACT AS CIVIL SERVICE COMMISSION IS ABLE TO COMPLY WITH PROVISIONS OF SECTION 486-7a2 G. C.
2. LENGTH OF SERVICE INCREASES—EFFECTIVE WHEN SECTION 486-7a G. C. BECOMES EFFECTIVE—SYLLABUS, BRANCH 1.
3. AUTOMATIC INCREASE, EFFECTIVE JULY 1, 1951, SECTION 486-7b9 G. C.—WILL NOT APPLY TO EMPLOYEES OF STATE SUPPORTED COLLEGES AND UNIVERSITIES.
4. COST OF LIVING INCREASE—WHEN SECTION 486-7a G. C. BECOMES EFFECTIVE SECTION 486-7d G. C. WILL APPLY TO EMPLOYEES OF STATE SUPPORTED COLLEGES AND UNIVERSITIES.

## SYLLABUS:

1. Section 486-7a3, General Code, as amended by Substitute House Bill No. 450 of the 99th General Assembly, so far as it sets salary and wage ranges, becomes effective as to the employes of the state supported colleges and universities as soon after the effective date of that Act as the Civil Service Commission is able to comply with the provisions of Section 486-7a2, General Code.

2. When Section 486-7a, General Code, as amended, becomes effective as provided by the first branch of the syllabus herein, Section 486-7a4, General Code, providing for length-of-service increases, will also become effective.

3. The automatic increase provided by Section 486-7b9, General Code, which becomes effective July 1, 1951, will not apply to the employes of the state supported colleges and universities when Section 486-7a, General Code, becomes effective as provided by the first branch of the syllabus herein.

4. When Section 486-7a, General Code, becomes effective as provided by the first branch of the syllabus herein, the cost-of-living increase provided by Section 486-7d, General Code, will apply to the employes of the state supported colleges and universities.

Columbus, Ohio, July 6, 1951

Hon. Carl W. Smith, Chairman, Civil Service Commission  
Columbus, Ohio

Dear Sir:

I have before me your request for my opinion. Your first question is as follows:

“Section 486-7a, General Code, as amended by Substitute House Bill No. 450 of the 99th General Assembly, provides that the state supported colleges and universities shall be subject to the provisions of Sections 486-7a, 486-7b, 486-7c and 486-7d, General Code. Substitute House Bill No. 450 became effective on June 13, 1951 and the changes which it effects commence July 1, 1951. When does the Act become effective as to the employes of the state supported colleges and universities.”

As originally enacted by the 98th General Assembly (123 Ohio Laws,) Section 486-7a, General Code, provided in part as follows:

“All positions, offices and employments in the state service, except those hereinafter excluded, are classified hereby as follows:

“\* \* \* The provisions of this act shall not apply to the following persons, positions, offices and employments:

“\* \* \* (5) All officers and employes of state supported colleges and universities and the administrative and research

staffs of the agricultural experiment station; provided, however, that with respect to the non-teaching staff such educational institutions shall conform as closely as possible with the classifications and salary scales herein provided."

That section was amended by Substitute House Bill No. 450 and now provides in part as follows:

"All positions, offices and employments paid in whole or part by the state of Ohio or paid out of any rotary fund of any state department or state institution, except those hereinafter excluded, are classified hereby as follows:

"\* \* \* The provisions of this act shall not apply to the following persons, positions, offices and employments:

"\* \* \* (5) Such officers and employes of state-supported colleges and universities as are designated in paragraph 7 of section 486-8 of the General Code; and seventy members of the administrative and research staffs of the Ohio agricultural experiment station, in addition to those employes whose duties include teaching at the state-supported colleges and universities."

The exempted employes listed in paragraph 7 of Section 486-8, General Code are as follows:

"7. All presidents, business manager, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers and such employes as are engaged in educational or research duties connected with the public school system, colleges and universities; \* \* \*."

The remaining university employes are amenable to the provisions of the Civil Service Law as amended.

The answer to your question as to the effective date of the law, as applied to the state universities, is found in the following language of Section 486-7a, General Code, as amended:

"\* \* \* 2. As soon as possible after the effective date of this act, the state civil service commission shall prepare specifications descriptive of the duties, responsibilities and desirable qualifications of each of the above classifications and shall allocate each present position, office or employment, *not already allocated*, paid in whole or in part by the state of Ohio *or paid out of any rotary fund of any state department or state institution*, to the appropriate class of positions, offices and employments among those set forth above on the basis of the duties, responsibilities, qualifications and requirements of such positions, offices or employments

in conformity with the report of the public administration service.  
\* \* \*

“3. As soon as the positions, offices and employments are allocated as aforesaid, *in paragraph 2*, the salaries and wages of the employes holding said positions, offices and employments shall be adjusted to the salary and wage ranges set forth in General Code section 486-7b, \* \* \*.”

The emphasized matter was added by Substitute House Bill No. 450.

From the foregoing language it seems to me to be clear that the General Assembly realized that it would take some time to survey and classify all of the university employes and provided that the Commission should do this job “as soon as possible.” It then provided that as soon as that allocation was completed, the wage rates provided by the act should be put into effect.

It is, accordingly, my opinion that Section 486-7a3, General Code, as amended by Substitute House Bill No. 450 of the 99th General Assembly, so far as it sets salary and wage ranges, becomes effective as to the employes of the state supported colleges and universities as soon after the effective date of that Act as the Civil Service Commission is able to comply with the provisions of Section 486-7a2, General Code.

Your second question is as follows :

“After Sections 486-7a, 486-7b, 486-7c and 486-7d, General Code, became effective as to the employes of the state supported colleges and universities, which of the following pay increases, if any, are applicable to said employes :

“1. The length of service increase provided by Section 486-7a4;

“2. The automatic increase provided by Section 486-7b9;

“3. The cost-of-living increase provided by Section 486-7d.”

Section 486-7a4, General Code, as amended, provides in part as follows :

“4. Effective as of July 1, 1951, an additional adjustment shall be made in the wages and salaries of all employes within the provisions of this act who were working for the state of Ohio or any of the several departments, commissions, bureaus, boards or councils on said date, to higher salary steps within

their respective pay ranges in recognition of their length of service, on the basis of the following, to-wit:

“Those employes who, on January 1, 1951, had been continuously employed by the state of Ohio for a period of five years but less than ten years, shall be advanced to the next higher step in their respective pay range; and those employes who, on said date, had been continuously employed for ten years or more, shall be advanced to the second higher step in their respective pay range; provided, however, that no employe shall be advanced beyond step 5 of his respective pay range. \* \* \*”

Here the General Assembly clearly provided for an increase based on continuous employment in the state service of whatever kind. Since the present classification law has been in effect only two years, the statute obviously is intended to reward service performed under prior classification law, and I believe that it covers those university employes who comply with its conditions.

Accordingly, it is my opinion that when Section 486-7a, General Code, as amended, becomes effective as set out above, Section 486-7a4, General Code, providing for length of service increases, will also become effective.

The automatic increase provided by Section 486-7b9, General Code, presents a more troublesome problem. That section provides in part as follows:

“\* \* \* Beginning July 1, 1951, each employe who has completed one year, or a major part thereof, in a particular position, office or employment and who is below step 5 in the pay range to which his position, office or employment is assigned, shall receive an automatic salary adjustment equivalent to the next higher step within the pay range for his class or grade. Each year thereafter, until the highest step in the pay range is reached, each employe shall receive an automatic salary adjustment equivalent to the next higher step within the pay range for his class or grade. The first such adjustment shall become effective as of July 1, following completion of the first year's service, or major part thereof, and as of July 1 of each year thereafter until the maximum salary or wage in the pay range is reached. On and after July 1, 1953, such adjustments shall be automatic for each employe when his service rating, as shown by the current or last performance report is equal to or higher than reasonable standards of efficiency to be fixed by the commission with due consideration, among other factors, of the need for maintaining equality of treatment of employes in the several departments of the state government.”

It is clear that employes who have just been classified and assigned to particular positions can not have spent the major part of a year in those positions so as to fall within the literal wording of the above statute. Such a literal interpretation of the statute, which follows the reasoning of my Opinion No. 405, rendered to you on June 20, 1951, compels the conclusion that the university employes will not be eligible for an automatic increase until July 1, 1952.

It is true that many of the employes who will be classified by the Commission will have been performing the same job for a year or longer. But those are matters of fact of which the Commission can have no knowledge. I believe it to be both the intention and effect of the law that the Commission shall judge the length of time spent at a job by the employe's classification record, and the employes in question, at present, have no such record.

This conclusion is supported by the chronological development of the law. As originally enacted in 1949, Section 486-7a, General Code, provided that the new classifications should become effective January 1, 1949 and that the first automatic increase should be payable on July 1, 1951. Assuming that the General Assembly meant for the Act to apply uniformly to each group of employes covered by it, it does not seem logical to assume that a group of employes just brought under the Act should immediately receive an automatic increase.

In addition to the above, there is another reason which leads me to the same conclusion. It obviously is the intention of the law, as now written, eventually to bring each employe to the highest step within his pay range. This will be accomplished by the length-of-service increase to be given only once, and by the automatic increase to be given each year until the maximum is reached. In 1949, the General Assembly saw fit to exempt university employes from the provisions of the Act. In 1951 it saw fit to include them. The result of this delay in extending the provisions of the Act seems to me to be a corresponding delay in the accumulation of its yearly benefits.

Accordingly, it is my opinion that that automatic increase provided by Section 486-7b9, General Code, which becomes effective July 1, 1951, will not apply to the employes of the state supported colleges and universities when Section 486-7a, General Code, becomes effective as set out above.

So far as the cost of living increase, provided by Section 486-7d, General Code, is concerned, it affects every employe subject to the provisions of the Civil Service Law. It is in a sense superimposed upon the whole classification system after all individual matters of coverage and other increments have been decided.

It is, therefore, my opinion that when Section 486-7a, General Code, becomes effective, as set out above, the cost of living increase provided by Section 486-7d, General Code, will apply to the employes of the state supported colleges and universities.

Respectfully,

C. WILLIAM O'NEILL

Attorney General