

**OPINION NO. 66-156**

**Syllabus:**

The Bureau of Unemployment Compensation is an employer within the meaning of that term as it is used in the Workmen's Compensation Laws of Ohio and is subject to the provisions set forth in Sections 4123.411 through 4123.418, inclusive, of the Ohio Revised Code, and the failure of the Legislature to appropriate funds for the Disabled Workers Relief Fund does not interfere with the Industrial Commission's power to assess directly the Bureau of Unemployment Compensation, as provided by Section 4123.411, Revised Code.

**To: Willard P. Dudley, Administrator, Bureau of Unemployment Compensation, Columbus, Ohio**

**By: William B. Saxbe, Attorney General, September 14, 1966**

I have before me your request for my opinion on the following questions:

"1. Is the Bureau of Unemployment Compensation to be considered as an employer subject to the tax rates set forth in Sections 4123.411 through 4123.418 of the Ohio Revised Code?

"2. Does the Ohio Law provide for direct assessments of the Bureau of Unemployment Compensation for premiums involving the Disabled Workmen's Relief Fund whenever the Legislature fails to appropriate funds for these purposes in any given biennium?"

Section 4123.01, Revised Code, provides in pertinent part as follows:

"As used in sections 4123.01 to 4123.94, inclusive, of the Revised Code:

\* \* \* \* \*

"(B) 'Employer' means:

"(1) The state, including, state hospitals, each county, municipal corporation, township, school district, and hospital owned by a political subdivision or subdivisions other than the state;

\* \* \* \* \*

"All such employers are subject to sections 4123.01 to 4123.94, inclusive, of the Revised Code."

Section 4123.01, supra, defines the term "employer" as it is used in Ohio's Workmen's Compensation statutes. On the face of this section it is clear that the state is an employer under the Workmen's Compensation Act and, as such, is obligated to comply with the Act's statutory provisions.

Further statutory authority for the proposition that the state is an employer appears in Section 4123.401, Revised Code, where "\* \* \* each state department, division, subdivision, bureau, commission, or any other state agency" is required, each biennium, to furnish the industrial commission with that agency's estimated number of employees and payroll for the ensuing two years.

Since nothing appears in Sections 4123.411 to 4123.418, inclusive, of the Revised Code, to indicate an intended change in the meaning of "employer," as the term is used in these sections, it is my opinion that the Bureau of Unemployment Compensation, as an agency of the State of Ohio, is amenable and subject to the provisions of Section 4123.411 through 4123.418, supra.

Your second question asks, if the Legislature fails to appropriate funds for the Disabled Workmen's Relief Fund, is the Bureau of Unemployment Compensation liable for direct assessments, as provided for by Section 4123.411, Revised Code.

Section 4123.411, Revised Code, provides in pertinent part as follows:

"For the purpose of carrying out the sections 4123.412 to 4123.418, inclusive, of the Revised Code, the industrial commission shall, in January of each year, levy an assessment upon the aggregate gross payroll of all employers for the preceding year \* \* \*

"The moneys derived from the assessment provided for in this section shall be credited to the disabled workmen's relief fund \* \* \*."  
(Emphasis added.)

Note that the assessments are levied once every year in January, and the moneys derived therefrom are created directly to this separate and distinct fund.

Therefore, it is my opinion that the Bureau of Unemployment Compensation is an employer within the meaning of that term as it is used in the Workmen's Compensation Laws of Ohio and is subject to the provisions set forth in Sections 4123.411 through 4123.418, inclusive, of the Ohio Revised Code, and that the failure of the Legislature to appropriate funds for the Disabled Workers Relief Fund does not interfere with the Industrial Commission's power to assess directly the Bureau of Unemployment Compensation, as provided by Section 4123.411, Revised Code.