

is an exception to the general laws of Ohio relating to the collection of taxes and as such is to be given a strict but reasonable construction.

2. By reason of the provisions of Amended Senate Bill No. 42, enacted by the 90th General Assembly, as amended in Amended Senate Bill No. 23 enacted by its Second Special Session, a taxpayer is not entitled to pay the taxes assessed against his real estate which became delinquent prior to the August, 1934, settlement, without penalty or interest or to enter into an agreement to pay the same in installments, unless prior to the first of September, 1934, he shall have made such election and paid the current taxes due and payable at the time of the election and all of the principal of such delinquencies or the first installment thereof, even though he may have filed a complaint from the valuation pursuant to the provisions of Section 5609, General Code.

3. If on April 5, 1933, the effective date of Amended Senate Bill No. 42 as enacted by the regular session of the 90th General Assembly, a complaint against a valuation of a property for taxation, pursuant to the provisions of Sections 5609, et seq., General Code, was pending, but undecided, either before the board of revision, tax commission of Ohio or the courts, the taxpayer may within sixty days after the final determination of such complaint, avail himself of the provisions of such Amended Senate Bill No. 42, as amended.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

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2882.

CIVIL SERVICE—NOT APPLICABLE TO EMPLOYES OF PARK DISTRICT CREATED UNDER SECTIONS 2976-1 ET SEQ., GENERAL CODE.

*SYLLABUS:*

*The civil service laws of the State of Ohio are not applicable to persons employed by a board of park commissioners of a park district created under section 2976-1, et seq., General Code.*

COLUMBUS, OHIO, July 2, 1934.

*The Civil Service Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—This will acknowledge your letter requesting my opinion which reads in part as follows:

“The Hamilton County Park District was created in accordance with Section 2976-1 et seq. of the General Code. Section 2976-6 authorizes such Board to ‘employ a secretary and such other employes as may be necessary.’

The limits of the Park District so created coincide with the boundaries of Hamilton County and include no territory other than that

in Hamilton County—in other words, the Park District coincides in extent with Hamilton County.

There has been some difference of opinion as to whether or not the employes of such Park Board properly come within the purview of Section 486-8, sub-paragraph b, or, in other words, whether or not such employes are in the classified or unclassified service.”

By virtue of the provisions of section 10 of article XV of the Constitution of Ohio and the civil service act (sections 486-1 to 486-31, inclusive, General Code), appointments and promotions to positions in the classified service in the state, the several counties, cities and city school districts are to be made according to merit and fitness to be ascertained so far as practicable by competitive examination.

Section 10 of article XV of the Constitution of Ohio reads:

“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.”

Section 486-1, General Code, reads in part:

“The ‘state service’ shall include all such offices and positions in the service of the state, or the counties thereof, except the cities and city school districts.

The term ‘classified service’ signifies the competitive classified civil service of the state, the several counties, cities and city school districts thereof.”

Section 486-8, sub-paragraph (b), reads in part:

“The classified service shall comprise all persons in the employ of the state, the several counties, cities and city school districts thereof, not specifically included in the unclassified service, to be designated as the competitive class and the unskilled labor class.”

It is apparent from the foregoing constitutional and statutory provisions that only persons employed by the state, the several counties, cities and city school districts, who occupy positions for which the merit and fitness of the incumbent may be determined by competitive examination, are amenable to the laws of this state relating to positions in the classified service of the state, the several counties, cities and city school districts. See *Board of Health of City of Canton, et al., vs. State, ex rel. O’Wesney*, 40 O. App. 77; 7 O. Jur., page 541.

The sole question presented by your inquiry is whether employes of a park district created and existing by virtue of the provisions of sections 2976-1 to 2976-10i, inclusive, General Code, are persons in the service of a county.

Section 2976-6 is pertinent and dispositive of the question and reads:

“Such commissioners shall constitute the board of park commissioners of such district, and such board shall be a body politic and corporate, and shall be capable of suing and being sued as in this act provided. Such board may employ a secretary and such other employees as may be necessary in the performance of the powers herein conferred, and shall keep an accurate and permanent record of all its proceedings.”

It will be quite evident on a reading of section 2976-1, et seq., General Code, that the legislature in authorizing the establishment of park districts intended to create a political subdivision separate and apart from the counties in which said park districts were located. This conclusion finds support in the opinion of Marshall, C. J., in the case of *State, ex rel. Bryant, vs. Akron Metropolitan Park District*, 120 O. S. 464, wherein the park district act was sustained as constitutional. Thus, we find at page 490 the following:

“ \* \* we are of the opinion that the Constitution has fully authorized the Legislature to create districts, as separate political subdivisions, and to create boards to exercise the governmental activities of the district, and to utilize such boards as fact-finding agencies, and to determine the financial needs of such districts, and to impose and collect taxes to defray the same.”

To the same effect, see Opinions of the Attorney General for 1929, pages 961, 962.

The question presented by your letter is not one of first impression in this office. In the Opinions of the Attorney General for 1919, at page 217, it was held that:

“The board of park commissioners of the Cleveland Metropolitan Park District is not a county board within the purview of section 2917, G. C., and the prosecuting attorney of the county is not required to furnish legal advice to such board.

Employes of the aforesaid park board are not in the service of the state, nor counties, cities or city school districts thereof within the purview of the civil service laws, and are not subject to the jurisdiction of the state civil service commission.”

The fact that the territory in the park district is co-terminous with Hamilton County does not make the park district a part of the county in which it is located. Such park district continues to exist as a separate and distinct political subdivision.

In view of the foregoing, it is my opinion that the civil service laws of the State of Ohio are not applicable to persons employed by a board of park commissioners of a park district created under section 2976-1, et seq., General Code.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*