

1504.

APPROVAL, BONDS OF HARRISONVILLE-SCIPIO CONSOLIDATED
SCHOOL DISTRICT, MEIGS COUNTY—\$33,500.00.

COLUMBUS, OHIO, February 7, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

1505.

ASSISTANT COUNTY SUPERINTENDENT OF SCHOOLS—PART TIME
EMPLOYMENT LEGAL—ONE-HALF OF SALARY NOT TO EXCEED
\$750 PER YEAR PAYABLE BY STATE.

SYLLABUS:

1. *An assistant county superintendent of schools may lawfully be employed for part time service.*
2. *When an assistant county superintendent of schools is employed either for full time or part time service, one-half his salary, not to exceed \$750.00 per year, should be paid by the state.*

COLUMBUS, OHIO, February 8, 1930.

Bureau of Inspection and Supervision of Public Owcges, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your request for my opinion in answer to the following question:

“May the county board of education employ a part time assistant county superintendent, as for example, for two days per week, and if so, may the state pay one-half of the salary of such part time superintendent, not to exceed \$750.00 per year?”

Sections 4739 and 4743, General Code, read as follows:

Sec. 4739. “One or more assistant county superintendents, as may be determined by the county board of education, may be elected for a term of not to exceed three years in each county school district by the county board of education on the nomination of the county superintendent. Provided, however, that no assistant county superintendent shall be elected in 1921 for a longer term than one year. A person other than the one nominated by the county superintendent may be elected by a majority vote of the county board of education.”

Sec. 4743. “The compensation of the assistant county superintendent shall be fixed at the same time that the appointment is made and by the same authority which appoints him, such compensation shall be paid out of the county board of education fund on vouchers signed by the president of the county board. The salary of any assistant county superintendent shall in no case be less than one thousand dollars per annum, half of which salary

not to exceed seven hundred and fifty dollars shall be paid by the state and the remainder by the county school district. The part paid by the county school district shall be prorated among the village and rural school districts in such county school district in proportion to the number of teachers employed in each district."

From the terms of Section 4739, supra, it will be observed that an assistant county superintendent may be elected for any term not to exceed three years. It is not necessary that an assistant county superintendent be elected for an entire year, but may, if desired, be elected for a part of a year or for a few months as in the judgment of the county board of education is proper.

Section 7706, General Code, provides with reference to the duties of an assistant county superintendent, as follows:

"The county superintendent and each assistant county superintendent shall visit the schools in the county school district, direct and assist teachers in the performance of their duties, and classify and control the promotion of pupils. The county superintendent shall spend not less than one-half of his working time, and the assistant county superintendents shall spend such portion of their time as the county superintendent may designate in actual class room supervision. Such time as is not spent in actual supervision shall be used for organization and administrative purposes, and in the instruction of teachers. At the request of the county board of education the county superintendent and the assistant county superintendents shall teach in teachers' training courses which may be organized in the county school district."

Sections 7706-1, 7706-2, 7706-3 and 7706-4, General Code, provide other duties of assistant county superintendents.

By the terms of Section 7706, supra, it appears that the entire time of an assistant county superintendent would be taken up in the performance of duties set forth in the statute, and it would therefore appear to have been the intention of the Legislature that an assistant county superintendent be employed for full time, and that time be taken up in actual classroom supervision and for organization and administrative purposes and in the instruction of teachers, although that conclusion does not necessarily follow from the language of the statute. There is no positive provision of law that is at all conclusive one way or another except the usual practice which may or may not have been taken into consideration by the Legislature, that public officers and public employees with fixed terms are usually expected to devote their time during the usual working hours of each day of their term of office or employment to the duties of that office or employment.

If a county board of education should in good faith determine that the services of an assistant county superintendent were not needed for more than one, two or three days a week and that the best interests of the schools of the county would be served by employing an assistant county superintendent for part time service which could no doubt be done at a smaller salary than if he were employed for full time, I know of nothing in the law which negatives the power of the county board of education to elect assistant county superintendents for part time service.

In any event, however, such assistant county superintendent must necessarily be paid the minimum salary fixed by the statute, that is, at the rate of \$1,000 per year, and so long as the terms of the agreement for part time services of an assistant county superintendent, at the salary fixed, are not such as to amount to an abuse of discretion on the part of a county board of education I am of the

opinion that it is empowered to employ an assistant county superintendent for one, two or as many days per week or month as in its judgment is proper.

Whether an assistant county superintendent is employed for part time or full time, one-half his salary not to exceed \$750.00 per year should be paid by the state.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1506.

ELECTION LAW—MEMBERS OF BOARDS OF ELECTIONS—COMPENSATION DURING 1931 BASED ON POPULATION OF COUNTIES OBTAINED FROM 1930 FEDERAL CENSUS, IF SUCH CENSUS COMPLETED IN 1930.

SYLLABUS:

In the event the 1930 federal census is completed in the latter part of the year 1930, the compensation of members of boards of elections for the year 1931 should be determined as provided in Section 4785-18, General Code, on the basis of the population of the county according to the 1930 census.

COLUMBUS, OHIO, February 8, 1930.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Your letter of recent date is as follows:

“We respectfully request you to furnish this department with your written opinion upon the following matter:

In your Opinion No. 1256 of December 4th, 1929, it is held that members of boards of deputy supervisors and inspectors of elections who continue in office after January 1st, 1930, under Section 4785-8, General Code, as members of the newly created boards of elections, must be compensated on the basis provided in Section 4785-18, General Code; and under your Opinion No. 1137 of November 1, 1929, it is held that the compensation of members of the board of elections of each of the several counties of the state for the year 1930, will be governed by the Federal census of 1920. Also that if the 1930 census is completed during the year 1930 no change can be made in the compensation of such members for that year.

Question: In the event that the 1930 census is completed in the latter part of the year 1930, will the compensation of such board members be increased or decreased in accordance with such census for the years following 1930 and during the term for which such members are appointed?”

Your question involves a consideration of Section 20, Article II of the Ohio Constitution, which provides:

“The general assembly, in cases not provided for in this constitution, shall fix the term of office and the compensation of all officers; but no change therein shall affect the salary of any officer during the existing term, unless the office be abolished.”