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CIVIL SERVICE, STATE — CLASSIFIED — UNCLASSIFIED — “ASSISTANTS”, SECTION 486-8 (a) 8 G. C.—NOT LIMITED TO MEAN ONLY SECRETARIAL ASSISTANTS—BUREAU OF UNEMPLOYMENT COMPENSATION — THE ADVISORY COUNCIL MAY NOT CLAIM AND BE GRANTED EXCEPTIONS FROM CLASSIFIED CIVIL SERVICE, PROVIDED BY ABOVE SECTION.

SYLLABUS:

1. *The word “assistants” as used in Section 486-8(a)8, General Code, is not limited to a meaning which would permit only secretarial assistants to be employed pursuant to the terms of that section.*

2. *The Advisory Council and the Board of Review of the Bureau of*

*Unemployment Compensation may not claim and be granted the exemptions from the classified civil service provided by Section 486-8(a)8, General Code.*

Columbus, Ohio, August 15, 1940.

Hon. H. C. Atkinson, Administrator,  
Bureau of Unemployment Compensation,  
Columbus, Ohio.

Dear Sir:

This will acknowledge your recent inquiry wherein you present the following questions for answer: (1) Must the two personal exemptions from the classified civil service, apart from the personal stenographer, granted you under Section 486-8(a)8, General Code, as Administrator of the Bureau of Unemployment Compensation, perform duties secretarial in nature? (2) Do the Board of Review and the Advisory Council of the Bureau of Unemployment Compensation have the right to the exemptions from the classified civil service granted by Section 486-8(a)8, General Code?

Section 486-8, General Code, provides:

“The civil service of the state of Ohio and the several counties, cities and city school districts thereof shall be divided into the unclassified service and the classified service.”

Subsection (a) under this section reads:

“The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required in this act.”

Subsection 8 under such Section (a) reads as follows:

“Three secretaries, assistants or clerks and one personal stenographer for each of the elective state officers; and two secretaries, assistants or clerks and one personal stenographer for other elective officers and each of the principal appointive executive officers, boards or commissions, except civil service commission, authorized by law to appoint such secretary, assistant or clerk and stenographer.”

By virtue of that section, you, as one of the principal appointive executive officers are entitled to appoint in the unclassified service two secretaries, assistants or clerks and one personal stenographer.

It has been suggested that the word “assistants” as used in such section should be given the meaning of “assistant secretaries” because of its associa-

tion with the word "secretary" which precedes the word "assistants" in that section. I can, however, find no support for such suggestion either in the wording of the statute or in such interpretations of the statute as have already been made. It would appear from no more than a reading of the words "two secretaries, assistants or clerks and one personal stenographer" that the plain wording of the statute itself is a negation of that proposition. No reason exists, in my opinion, why the word "assistants", coming as it does after the word "secretaries" and separated from that word by a comma, is dependent upon the preceding word for its meaning. Each word has a meaning distinct and apart from the other. "Secretary" is defined as:

"A person who conducts correspondence, keeps records, etc. for an individual or an organization." (New Century Dictionary.)

"Assistant" is defined as:

"Helper, aid auxiliary. One who assists a superior in some office or work." (New Century Dictionary.)

The Supreme Court of this state in an interpretation of the word "assistant" as used in Section 486-8(a)8, General Code, in the case of State, ex rel. Myers vs. Blake, 121 O. S. 511, adopted a definition of the word "assistant" similar to the latter definition above and a definition completely at variance with the proposition that the word "assistant" connotes one carrying out duties secretarial in their nature. In determining that the Chief of the Division of Boiler Inspection of the Department of Industrial Relations, State of Ohio, was an "assistant" as that word is used in Section 46-8(a)8, the court said at page 516:

"The office of chief of the division of boiler inspection being thus within the purview of the department of industrial relations, he was clearly within its jurisdiction and a subordinate of the director thereof. As such chief of the division of boiler inspection, he was an 'assistant' to the head of the department, as an agent through whom the duties and purposes of the department were accomplished. The subordinate of one in an official position is necessarily an assistant, looking toward the accomplishment of the common object. We think the term was so used by the Legislature in paragraph (a), subsection 8, Section 486-8, General Code."

The court said further at page 517:

"We think that the construction given the word 'assistants' in the section under consideration is a reasonable one, and within the

legislative intent in the passage of the law in question, and that the same is not inconsistent with the constitutional requirements."

I, therefore, conclude that the word "assistants" as used in Section 486-8(a)8, General Code, is not limited to a meaning which would permit only secretarial assistants to be employed pursuant to the terms of that section.

Your second question likewise requires an examination of Section 486-8(a)8, General Code. You will note that the exemption granted by that section may be claimed only by those "authorized by law to appoint such secretary, assistant or clerk and stenographer." It, therefore, becomes necessary to determine whether or not the Board of Review and the Advisory Council of the Bureau of Unemployment Compensation are so authorized by law.

The Board of Review of the Bureau of Unemployment Compensation is created and given its powers by Section 1346-3, General Code. That section contains two specific grants of power to appoint and none other. They are:

" \* \* \* The board may appoint a secretary to hold office at its pleasure. \* \* \* "

"The board, subject to the civil service laws of this state and to the approval of the governor, shall appoint and fix the compensation of such referees as may be deemed necessary, \* \* \* ."

Obviously, the secretary which may be appointed by the Board is in the unclassified service. The same section further provides:

" \* \* \* The administrator shall furnish the board and its referees and secretary with such offices, reporters, clerical aids and other help and supplies as shall be requisite to the discharge of the duties of the board, \* \* \* ."

The Advisory Council of the Bureau of Unemployment Compensation is created and empowered by Section 1346-2, General Code. That section gives to the Council no appointive power, but provides:

"The administrator shall furnish the advisory council with such meeting place and secretarial service as shall be requisite to the discharge of its duties, \* \* \* ."

Thus it is readily apparent that in the case of the Board of Review no general power of appointment exists, but rather a specific power of appointment limited to designated positions and that the general power of appoint-

ment, as in the case also of the Advisory Council, rests with the Administrator of the Bureau of Unemployment Compensation who is directed by law to furnish both such bodies with secretarial services and such other help as is necessary.

The Advisory Council, having no power of appointment, and the Board of Review having only a specific power of appointment directed to certain named positions. I, therefore, come to the conclusion that neither of such bodies are "authorized by law to appoint such secretary, assistant or clerk and stenographer" and that it follows, therefore, that neither the Board of Review nor the Advisory Council of the Bureau of Unemployment Compensation may claim and be granted the exemptions from the classified civil service provided by Section 486-8(a)8, General Code.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.