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VACATION—EMPLOYEE OF STATE ENTITLED TO AFTER ONE YEAR FROM START OF SERVICE—§121.161 R.C.

SYLLABUS:

The words "during each year thereafter," as used in Section 121.161, Revised Code, mean successive periods of 365 days next following the completion of the first year of appointment or employment of a state employee.

Columbus, Ohio, June 25, 1959

Hon. R. C. Crouch, Director
Department of Liquor Control
Columbus, Ohio

Dear Sir:

I have before me your request for my opinion, which reads as follows:

"Section 121.161 of the Revised Code, begins as follows:

'Each full-time state employee, including full-time hourly-rate employees, after service of one year with the state, is

entitled, during each year thereafter, to two calendar weeks, excluding legal holidays, vacation leave with full pay * * *

"I should like your opinion as to what the term 'each succeeding year' means. Does such a 'year' begin on the anniversary date of the employment, the next calendar year, or, perhaps, the next fiscal year?"

"The writer is Chairman of a Cabinet Committee designated to study this question so as to install uniformity of policy throughout the government of the state on the question of vacations."

To answer your question with respect to the meaning of the term "during each year thereafter," I would call your attention to the use earlier in the same sentence of the words "after service of one year with the state."

It is a basic principle founded on common sense, in the interpretation and construction of statutes, that the meaning of a word, phrase or term when first employed, shall govern the meaning of a subsequent use of such word, phrase or terms, barring a subsequent qualification or new meaning given such word, phrase or term.

Thus it is that we must advert to the first use of the word "year" to determine its legislative meaning. The first employment of the word is in the phrase "after service of one year." There is no escaping the meaning of this phrase which indicates that one year after the employment or appointment of an employee, such employee becomes qualified for the benefits described in the section above cited. In 37 Ohio Jurisprudence, 536, Section 283, we find it stated:

"The lawmaking body's own construction of its language, by means of definitions of the terms employed, should be followed in the interpretation of the act or section to which it relates and is intended to apply. Indeed, there is no better way to determine the intent and purpose of the legislature than by its own definition of the language used. Accordingly, any provision in a statute which declares its meaning is authoritative and in many cases will have controlling weight."

Numerous cases are cited in support of that proposition.

In effect, as I see it, the legislature did by the opening words of the sentence, give a definition of the word "year" which will govern the entire sentence. Certainly no one could question the meaning of the words "service of one year with the state," as meaning 365 days from the time the service began regardless of the month or day. And when the legislature said that after service of one year, the employee should be entitled

“during *each year* thereafter,” to certain benefits, it could not have intended any other kind of year. If it had intended to bring in the idea of a “calendar year” or “fiscal year,” it would have used words manifesting such intention. And if it had done so, hopeless confusion and unfairness would have resulted since it is obvious that employment might begin on any day of the year and that a subsequent “calendar year” or “fiscal year” could possibly have been fitted to the first year of service.

Accordingly, it is my opinion and you are advised that the words “during each year thereafter,” as used in Section 121.161, Revised Code, mean successive periods of 365 days next following the completion of the first year of appointment or employment of a state employee.

Respectfully,

MARK McELROY

Attorney General