

OPINION NO. 67-002**Syllabus:**

The power of the Ohio Higher Education Assistance Commission to fix the compensation and prescribe the duties of its employees pursuant to Section 3351.06, Revised Code, must be exercised in conformity to the provisions of Sections 143.09 and 143.10 of the Revised Code.

To: Daniel W. DeHayes, Chairman, Ohio Higher Education Assistance Commission, Columbus, Ohio
By: William B. Saxbe, Attorney General, January 6, 1967

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

"May the Commission fix the compensation of its employees, and, if the answer to that question is in the affirmative, must the Commission set the salaries of its employees, all of whom are in the unclassified service, in accordance with the pay ranges delineated in Sections 143.09 (A) and 143.10 (A) of the Ohio Revised Code?"

Under the power and duties granted the Ohio Higher Education Assistance Commission by the General Assembly for its internal operation Section 3351.06, Revised Code, provides:

"The commission shall adopt rules for the conduct of the commission and may appoint such officers and employees as necessary and may fix their compensation and prescribe their duties."

I note that this section of the Revised Code became effective September 2, 1963.

Also to be considered is Section 143.09, Revised Code, which states in part:

"(A) All positions, offices, and employments paid in whole or in part by this state or paid out of any rotary fund of any state department, or state institution, except those excluded in sections 143.09 and

143.10 of the Revised Code, are assigned to the pay ranges established in section 143.10 of the Revised Code, as follows:"

(Thereafter follows a long list of job titles, each designated by a Classification Number, Classification Title and Pay Range Number).

I further note that Section 143.09, supra, became effective July 22, 1965.

The exclusions referred to above are found in Section 143.09 (K):

"(K) Such sections do not apply to the following persons, positions, offices, and employments:

"(1) Elected officials;

"(2) Legislative employees and employees of the legislative reference bureau; legislative service commission; employees in the office of the governor; and employees of the supreme court;

"(3) All commissioned and noncommissioned officers and enlisted men in the military service of the state, including military appointments in the office of the adjutant general;

"(4) The following appointive state officers and officials: adjutant general and the assistant adjutants general; director of highways; director of public instruction; director of mental hygiene and correction; members of the industrial commission; members of the public utilities commission; and superintendent of the Ohio soldiers' and sailors' home and the Ohio soldiers' and sailors' orphans' home; members of the state personnel board of review; and members of all boards, commissions, and councils;

"(5) Such officers and employees of state-supported colleges and universities as are designated in division (A) (7) of section 143.08 of the Revised Code; and the members of the administrative and research staffs of the Ohio agricultural research and development center in addition to those employees whose duties include teaching at the state-supported colleges and universities; and personnel employed temporarily by the department of mental hygiene and correction to participate in specifically designated research projects;

"(6) Such employees of the department of mental hygiene and correction who are appointed pursuant to section 5519.491 5119.49.1 of the Revised Code."

The employees of the Ohio Higher Education Assistance Commission do not come with any of the specific exclusions of Section 143.09 (K) supra.

From a review of the exclusion clause of Section 143.10, Revised Code, it is apparent that this provision does not apply to the regular Ohio Higher Education Assistance Commission employees.

Pay range classifications are established by Section 143.10, Revised Code:

"(A) All employees working for the state or any of the several departments, commissions, bureaus, boards, or councils of the state, except those excluded in section 143.09 of the Revised Code, shall be paid a salary or wage in accordance with one of the following monthly pay ranges, prorated into equal installments on a monthly, semi-monthly, or bi-weekly basis:

Pay Range Number	Step 1	Step 2	Step 3	Step 4	Step 5
16	230	240	252	264	276
		* * *			
55	1320	1380	1440	1500	1560 "

Section 143.10, supra, became effective July 22, 1965.

The prime rule governing all statutory interpretation is to determine the legislative intent. Statutes relating to one subject are presumed to be governed by one spirit and policy and intended to be consistent and harmonious. Statutes in pari materia should be construed together and all should be reconciled, harmonized and made to apply to give meaning and effect so as to render their contents operative and valid.

In the instant case, I find no conflict between the powers granted the Ohio Higher Education Assistance Commission and the state civil service enactments. It is my opinion that the General Assembly intended for the Ohio Higher Education Assistance Commission to exercise its powers within the framework of Sections 143.09 and 143.10, supra.

This means that the Ohio Higher Education Assistance Commission prescribes the duties of its employees according to and within the classification titles of Section 143.09, supra, as defined by the position specifications formulated by the director of state personnel.

Accordingly, the compensation to be paid Ohio Higher Education Assistance Commission employees shall be determined on the basis of the pay range classification established by Section 143.10, supra, which are correlated to the duties performed by such employees as defined by the Commission in keeping with the classification titles of Section 143.09, supra.

Therefore it is my opinion and you are hereby advised that the power of the Ohio Higher Education Assistance Commission to fix the compensation and prescribe the duties of its employees pursuant to Section 3351.06, Revised Code, must be exercised in conformity to the provisions of Sections 143.09 and 143.10 of the Revised Code.