

OPINION NO. 92-031**Syllabus:**

Where a board of township trustees passes a resolution increasing the amount of group life insurance available to its officers and full-time employees under R.C. 505.60(B), Ohio Const. art. II, §20 prohibits a member of the board of township trustees from receiving the increased life insurance coverage during the term he is serving when the resolution is passed.

To: Lynn Alan Grimshaw, Scioto County Prosecuting Attorney, Portsmouth, Ohio

By: Lee Fisher, Attorney General, July 21, 1992

You have requested my opinion as to the permissibility of providing a township trustee increased life insurance coverage under R.C. 505.60 during the trustee's current term. By way of background, your letter states that, in 1984, the township passed a resolution to provide life insurance coverage in the amount of five thousand dollars for each township officer, as then authorized by R.C. 505.60 (1979-1980 Ohio Laws, Part I, 962 (Sub. S.B. 285, eff. Aug. 8, 1980)). Subsequently, R.C. 505.60 was amended in 1987-1988 Ohio Laws, Part II, 3225 (Am. H.B. 288, eff. May 18, 1988), to allow a board of township trustees to purchase group life insurance coverage for its officers in an amount not to exceed fifty thousand dollars per officer. Accordingly, the board of township trustees would like to increase to fifty thousand dollars the life insurance coverage for its officers. You state that one of the township's trustees is currently in the middle of a four-year term, having taken office on January 1, 1990.¹ You question whether providing this additional life

¹ R.C. 505.01 provides for the election and term of township trustees as follows:

In each township there shall be a board of township trustees consisting of three members. Two of such trustees shall be

insurance coverage for the trustee during his current term would violate Ohio Const. art. II, §20.

Constitutional Prohibition Against In-Term Changes in Officers' Compensation

Article II, §20 of the Ohio Constitution states: "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 his existing term, unless the office be abolished." This provision of the Constitution, therefore, prohibits any change, whether an increase or decrease, in an officer's salary during his term.

The prohibition against in-term changes in salary prescribed by Ohio Const. art. II, §20 applies to the office of township trustee. 1983 Op. Att'y Gen. No. 83-015; 1981 Op. Att'y Gen. No. 81-099. Further, the term "salary," as used in art. II, §20, encompasses other forms of compensation, including payments to procure life insurance benefits. *See State ex rel. Parsons v. Ferguson*, 46 Ohio St. 2d 389, 348 N.E.2d 692 (1976) (finding that payments for health insurance premiums constitute "salary" for purposes of Ohio Const. art. II, §20); 1975 Op. Att'y Gen. No. 75-061 (syllabus, paragraph one) ("[a]n increase in paid group life insurance during the existing term of a state officer is a change in salary under Article II, Section 20 of the Ohio Constitution and is therefore prohibited during such 'existing term'").

Life Insurance Benefits for Township Officers

Pursuant to R.C. 505.60(B): "A board of township trustees may procure and pay all or any part of the cost of group life insurance to insure the lives of officers and full-time employees of the township. The amount of group life insurance coverage provided by the board to insure the lives of officers of the township shall not exceed fifty thousand dollars per officer."

In 1984, when the board of township trustees passed its resolution authorizing group life insurance coverage for its officers, former R.C. 505.60 (Sub. S.B. 285) limited the amount of coverage to a maximum of five thousand dollars per person. The board of township trustees now proposes to increase the life insurance coverage for its officers from five thousand dollars per person to fifty thousand dollars per person, as currently allowed by R.C. 505.60(B). While R.C. 505.60(B) does authorize the board of township trustees to offer such increased coverage, Ohio Const. art. II, §20 prohibits the trustee about whom you ask from receiving any increase in life insurance coverage authorized by a resolution adopted during the term he is serving.² *See* 1984 Op. Att'y Gen. No. 84-069 (syllabus) ("[p]ursuant

elected at the general election in nineteen forty-nine and quadrennially thereafter, in each township, who shall hold office for a term of four years, commencing on the first day of January next after their election. The third trustee shall be elected at the general election in nineteen fifty-one and quadrennially thereafter, in each township, who shall hold office for a term of four years, commencing on the first day of January next after his election.

² Your letter asks whether uncodified section 3 of 1989-1990 Ohio Laws, Part I, 947 (Sub. S.B. 170, eff. Jan. 9, 1991) affects the answer to your question. Uncodified section 3 of Sub. S.B. 170 states: "The General Assembly hereby finds that a change in a township trustee's insurance

to Ohio Const. art. II, §20, a county elected officer who holds office when the board of county commissioners increases the amount paid by the county on behalf of county officers for the officers' health insurance premiums is not entitled to receive the increase for the duration of the term he was serving at the time the increase was implemented").

Conclusion

It is, therefore, my opinion and you are hereby advised that, where a board of township trustees passes a resolution increasing the amount of group life insurance available to its officers and full-time employees under R.C. 505.60(B), Ohio Const. art. II, §20 prohibits a member of the board of township trustees from receiving the increased life insurance coverage during the term he is serving when the resolution is passed.

coverage as a part of a revision of the township's plan, as contemplated in the amendment of [R.C. 505.60] by Section 1 of this act, has not constituted and will not constitute an increase in the trustee's compensation. Such revisions that may have occurred before the effective date of this act do not, therefore, violate the Constitution, former [R.C. 505.60], or any other laws of the state." This language refers to changes in the insurance plan offered under division (A) of R.C. 505.60, not to life insurance coverage as governed by R.C. 505.60(B), and does not, therefore, apply to the action about which you ask.