

OPINION 65-216**Syllabus:**

1. Section 325.19, Revised Code, does not require that a salaried county employee with less than six months full-time county service prior to the month when a holiday enumerated therein occurs be paid for such holiday.
2. Section 325.19, Revised Code, requires that a salaried county employee with at least six months full-time county service prior to the month when a holiday enumerated therein occurs be paid only eight hours pay for such holiday at his regular rate. Section 325.19, Revised Code, does not require a larger pay for such holiday. Opinion No. 606, Opinions of the Attorney General for 1959, page 316, distinguished.
3. Section 511.10, Revised Code, does not require that a salaried township employee with less than six months full-time township service prior to the month when a holiday enumerated therein occurs be paid for such holiday.
4. Section 511.10, Revised Code, requires that a salaried township employee with at least six months full-time township service prior to the month when a holiday enumerated therein occurs be paid only eight hours pay for such holiday at his regular rate.

To: James V. Barbuto, Summit County Pros. Atty., Akron, Ohio
By: William B. Saxbe, Attorney General, December 2, 1965

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

"Our attention has been called to the following language in amended substitute House Bill No. 70, amending Section 325.19 of the Re-

vised Code of Ohio:

"Such county employee working--or salary basis, shall be entitled to eight hours holiday pay for New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day, of each year, if he is a regular employee with at least six months full-time county service prior to the month in which such holiday occurs--."

"A county salaried employee is paid the same amount for each month's work. During a long month his pay is the same as for a short month, for reason that salaries are quoted as an annual sum; see 143.10 for an example.

"1. If the salaried employee has less than six months service prior to the holiday and does not work on the holiday, should his normal monthly pay be reduced by the eight hours holiday pay?

"2. If the salaried employee has more than six months service: shall his usual salary for the month of the holiday be increased by the eight hours holiday pay?

"3. Under amended SB 51 do the same methods of computation apply to salaried township employees?"

Section 325.19, Revised Code, was amended by the 106th General Assembly, Amended Substitute House Bill No. 70, to provide, in pertinent part:

"In addition to such vacation leave, such county employee, working on a per diem * * * basis, hourly basis, or salary basis, shall be entitled to eight hours of holiday pay for New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day, of each year, if he is a regular employee with at least six months full-time county service prior to the month when such holiday occurs.* * *"

In Opinion No. 606, Opinions of the Attorney General for 1959, page 316, my predecessor interpreted Section 325.19, supra, in response to a request for an opinion as to whether per diem and hourly county employees are entitled to holiday pay for a holiday enumerated in that section when such holiday falls on a day on which such employee is not regularly scheduled to work. In that Opinion, at page 320, my predecessor held:

"* * *it is my opinion and you are advised that under the provision of Section 325.19, Revised Code, all per diem and hourly employees of a county are entitled to receive on Memorial Day and Independence Day in 1959, which days fall on Saturday, eight hours of holiday pay for each of such days."

I am in agreement with this holding although I am constrained to dissent from a suggestion in the language of the opinion. At page 318, my predecessor wrote:

"Taking the legislature at its word, as we must, it appears that it has granted all these particular employees a bonus for New Years (sic) Day and for each of the other named holidays."

Later in the Opinion my predecessor wrote at page 319:

"Section 325.19, Revised Code, indicates an intention of the General Assembly to grant a special bonus to county employees who are employed by the day or hour." (Emphasis added)

Insofar as Section 325.19, supra, guarantees county employees that they will receive holiday pay for an enumerated holiday whether or not they are regularly scheduled to work on such holiday, it does provide for compensation in the nature of a bonus. However, insofar as the language used in Opinion No. 606, supra, suggests that a special bonus is greater than such guarantee, it is misleading and from it I dissent. The language of Section 325.19 is clear that county employees shall be paid for the enumerated holidays. There is no provision therein that they should receive a larger pay for a holiday than they receive for a regular work day.

By Amended Substitute House Bill No. 70, The General Assembly included salaried employees in Section 325.19, supra, and provided that they shall be treated the same as per diem and hourly county employees for the purpose of holiday pay. Salaried employees with at least six months full-time county service prior to the month when such holiday occurs are now guaranteed that they will receive their regular pay for the holidays enumerated in Section 325.19, supra, without regard to when such holiday falls. Inasmuch as Section 325.19, supra, does not provide that its guarantee applies to salaried county employees with less than six months full-time county service prior to the month when such holiday occurs it is the intent of the legislature that such guarantee does not apply to them.

Accordingly, in answer to your first two questions, it is my opinion:

1. Section 325.19, Revised Code, does not require that a salaried county employee with less than six months full-time county service prior to the month when a holiday enumerated therein occurs be paid for such holiday.

2. Section 325.19, Revised Code, requires that a salaried county employee with at least six months full-time county service prior to the month when a holiday enumerated therein occurs be paid only eight hours pay for such holiday at his regular rate.

Section 511.10, Revised Code, was amended by the 106th General Assembly, Amended Senate Bill No. 51, to provide, in pertinent part:

"Any township employee working on a salary or hourly basis is entitled to eight hours of

holiday pay for New Year's day, Memorial day, Thanksgiving day, and Christmas, of each year, provided that the employee is a regular employee with at least six months full-time township service prior to the month when such holiday occurs."

It is my opinion that this section provides the same guarantee for salaried township employees that Section 325.19, supra, provides for salaried county employees.

Accordingly, in answer to your third and fourth questions, it is my opinion:

3. Section 511.10, Revised Code, does not require that a salaried township employee with less than six months full-time township service prior to the month when a holiday enumerated therein occurs be paid for such holiday.

4. Section 511.10, Revised Code, requires that a salaried township employee with at least six months full-time township service prior to the month when a holiday enumerated therein occurs be paid only eight hours pay for such holiday at his regular rate.