Note from the Attorney General's Office:

1951 Op. Att'y Gen. No. 51-0266 was modified and overruled in part by 1963 Op. Att'y Gen. No. 63-500.

266

1. SICK LEAVE BENEFITS—CITY MAY PROVIDE APPROPRIATE LEGISLATION FOR EMPLOYES—EXCEPTION, POLICEMEN AND FIREMEN—NOT SUBJECT TO PROVISIONS OF SECTION 486-17c G. C.—OPINION 1650, APRIL 12, 1950, O. A. G. 1950, PAGE 231, OVERRULED.

2. CITY MAY PROVIDE SICK LEAVE BENEFITS FOR MEMBERS OF POLICE FORCE AND FIREMEN—MAY BE GREATER BUT NOT LESS THAN THOSE PROVIDED FOR IN SECTION 486-17c G. C.

3. POLICEMEN AND FIREMEN—WHO RECEIVE PENSIONS OR ALLOWANCES FOR PARTIAL OR TOTAL DISABILITY—SECTION 4600 ET SEQ., G. C.—NOT MUNICIPAL EMPLOYES—NOT WITHIN PROVISIONS OF LAW GRANTING SICK LEAVE ALLOWANCES TO PUBLIC EMPLOYES.

4. DISABILITY—POLICEMAN OR FIREMAN—WITHIN OR OUTSIDE LINE OF DUTY—ELIGIBLE FOR RETIREMENT IN POLICE OR FIREMEN'S PENSION FUND—MUNICIPALITY MAY PROVIDE CERTAIN ALTERNATIVES BY WAY OF RELIEF.

5. SICK LEAVE BENEFITS—CHARTER PROVISION OR ORDINANCE.

6. CLEVELAND TRANSIT BOARD—CHARTER, CITY OF CLEVELAND—BOARD ENDOWED WITH ALL POWERS OF CITY, LEGISLATIVE, ADMINISTRATIVE—MANAGEMENT AND OPERATIONS OF CITY'S TRANSIT SYSTEM MAY MAKE PROVISIONS FOR SICK LEAVE BENEFITS FOR ITS EMPLOYES—PROVISIONS NOT SUBJECT TO SECTION 486-17c G. C.

SYLLABUS:

1. A city may provide by appropriate legislation for sick leave benefits for its employes, except policemen and firemen, and such provisions are not in any way subject to the provisions of Section 486-17c of the General Code, but may be either greater or less than specified in said Section 486-17c. Opinion No. 1650, Opinions of the Attorney General for 1950, overruled.

2. A city may provide sick leave benefits for members of its police force and firemen, which may be greater but not less than those provided for in Section 486-17c, General Code.

3. Policemen and firemen while receiving pensions or allowances for partial or total disability under the provisions of the statutes relating to police and firemen's pension funds (Section 4600 et seq., General Code) are not municipal employes, and do not come within the provisions of law or ordinance granting sick leave allowance to public employes.

4. When a policeman or fireman has suffered disability, either within or outside his line of duty, and is eligible to retirement in the police or firemen's pension fund, a municipality may, in lieu of retiring him, provide for him relief by way of sick leave or otherwse, beyond the sick leave allowances provided for employes generally.

5. The actions of a city in providing for sick leave benefits may be by a charter provision, or by ordinance in case the charter does not so provide. Any city not having a charter may make such provision by ordinance.

6. The Cleveland Transit Board is, by the terms of the charter of the City of Cleveland endowed with all the powers of the city, both legislative and administrative in the management and operation of the city's transit system, and may make such provisions as it sees fit for sick leave benefits for its employes, and such provisions will not be in any way subject to the provisions of Section 486-17c of the General Code.

Columbus, Ohio, April 25, 1951

Bureau of Inspection and Supervision of Public Offices
Columbus, Ohio

Gentlemen:

I have your letter requesting my opinion, and reading in part as follows:

> "Several questions have arisen in connection with the current examination of the City of Lima, as a result of conflict between Section 486-17c, General Code, and provisions of the city charter governing the allowance of sick leave to municipal employes. * * *
>
> "We are familiar with Attorney General's Opinion No. 1650, rendered April 12, 1950 in answer to four questions pertaining to the provisions of Section 486-17c, General Code, which we submitted under date of January 17, 1950.
>
> "It has also come to the attention of this Bureau that various cities have provided by ordinance or charter for the allowance of sick leave with pay for their employes on a basis somewhat different from that authorized in Section 486-17, G. C.
>
> "We find that the solicitors for those cities have given municipal officers rulings and opinions concerning the allowance of

sick leave for employes which do not agree with the provisions of Section 486-17c, G. C., as interpreted by former Attorney General Duffy in Opinion No. 1650 of 1950.

"* * * In view of the obvious disagreement among city solicitors, municipal officers and others, over the proper interpretation to be given the provisions of Section 486-17c, General Code, as it applies to sick leave for municipal employes, we submit the following questions for your consideration and respectfully request that you furnish us with your formal Opinion in answer thereto:

"1. When a city has adopted a charter which provides among other things that municipal employes having two or more years of service shall be entitled to thirty days sick leave per year with pay, does the charter provision prevail over Section 486-17c, General Code, as it applies to municipal corporations?

"2. Where the city charter makes no provision for cumulative sick leave credit, are municipal employes of such city entitled to cumulative sick leave benefits as provided in Section 486-17c, General Code.

"3. When a city has established both police and firemen's relief and pension funds pursuant to the provisions of Sections 4600 to 4615-1, and 4616 to 4631-3b, of the General Code, may the city council enact legislation legally authorizing additional sick leave benefits for police and firemen, or other employes, who are incapacitated by reason of sickness or injury incurred in the line of duty?

"4. When members of the police and fire departments suffer injuries or become ill as a result of services rendered in the line of duty or otherwise, and such person is eligible to receive benefits for temporary disability from a pension fund duly established for the protection of firemen and policemen, is it legal for council to authorize the payment of compensation out of the general fund to such disabled employes, beyond their actual accumulated sick leave credit?

"5. Do the provisions of a city charter, which require an employe to have two years of service in order to qualify for sick leave, supersede the provisions of Section 486-17c, General Code, establishing the right of every public employe to receive one and one-fourth days sick leave with pay for each month worked after the effective date of said law, October 25, 1949?

"6. Do the provisions of Section 486-17c, G. C. apply with equal force to both charter and non-charter cities under the Home Rule provisions of the State Constitution?".

I also acknowledge receipt of your supplementary request for my opinion relative to the application of Section 486-17c, General Code, to the employes of the Cleveland Transit System. The specific question there raised will be referred to later.

Since your questions seem to arise out of an interpretation by my immediate predecessor of Section 486-17c, of the General Code, effective in its present form October 24, 1949, which interpretation differs from that arrived at by various city solicitors throughout the state I deem it necessary to give attention first to the opinion of the Attorney General which was issued on April 12, 1950, numbered 1650. The syllabus of that opinion is as follows:

> "1. The sick leave benefits of Section 486-17c, General Code as amended, apply to all full-time municipal employes.
>
> "2. The sick leave benefits of Section 486-17c, General Code, as amended, are mandatory and should be applied uniformly to all employes covered thereby. The council of a municipality, therefore, may not provide sick leave benefits for municipal employes which are not consistent with the provisions of said section."

The following portion of Section 486-17c will sufficiently disclose the questions involved. The omitted portion deals only with the matter of accumulated credit.

> "Each full-time employe, whose salary or wage is paid in whole or in part by the state of Ohio and each full-time employe in the various offices of the county service and municipal service, and each full-time employe of any board of education, shall be entitled for each completed month of service, to sick leave of one and one-fourth (1¼) work days with pay. * * * This act shall be uniformly administered as to employes in each agency of the state government.
>
> "Nothing in this act shall be construed to interfere with existing sick leave credit in any agency of government where attendance records are maintained and credit has been given employes for unused sick leave."

Practically the entire argument of the opinion is contained in the following paragraphs:

> "Your first question is whether the provisions of Section 486-17c, General Code, apply to municipal corporations. As you point out in your letter, there is an apparent conflict contained in

Section 486-17c, in that the first part of the section contains the words, 'each full-time employe in the various offices of the county and municipal services', and in the latter part of the act the words 'this act shall be uniformly administered as to employes in each agency of the State government', appear. These words are new to Section 486-17c having been added by the 98th General Assembly. Other changes made in said section include where 'state service' appears 'public service' has been substituted.

"It is readily apparent from the amendments made to Section 486-17c by the 98th General Assembly that the legislature intended the broadest coverage possible for the amended section. Persons specifically extended sick leave privileges are full-time employes under the jurisdiction of the legislature in any of the following categories:

"(1) Paid in whole or in part by the State of Ohio;

"(2) In the various offices of the county service;

"(3) In the various offices of the municipal service; and

"(4) Of any board of education.

"In view of the specific reference to employes of municipal corporations, I have difficulty seeing how a question could be raised concerning whether or not they are within the scope of the legislation. Further, I interpret the language used: 'in the various offices of the * * * municipal service', to indicate a legislative intent *not* to omit any full-time municipal employe. Also, I fail to see how the concluding sentence, to which you refer, and repeated above, casts any doubt upon the application of the sick leave provisions to municipal employes. There is no language of exception or qualification in the sentence to which you refer. Its clear sense and intent is to emphasize one of the principal purposes of the legislation, viz., to provide for uniform operation and administration of the sick leave privileges extended by the Act.

"The validity of the concluding observation in the preceding paragraph is seen by referring to the title of the Act in the 98th General Assembly (Am. H. B. No. 109):

'An Act to amend Section 486-17c of the General Code relative to *uniform operation of sick leave in all governmental agencies.*'" (Emphasis supplied.)

There is no reference in the opinion to the Eighteenth Amendment to the Constitution or to the home rule powers of municipalities granted by the Constitution. The opinion appears to assume that municipalities are creatures of the legislature, and wholly subject to its mandates. This

was unquestionably the correct view of the law relating to municipal powers prior to the adoption of Article XVIII of the Constitution in 1912. Previous to the adoption of that article it was well established, as held in the case of Ravenna v. Pennsylvania Co., 45 Ohio St., 118:

> "1. Municipal corporations, in their public capacity, possess such powers and such only, as are expressly granted by statute, and such as may be implied as essential to carry into effect those which are expressly granted."

It might be added that this is still the measure of municipal power in most of the states, Ohio being rather unique in the broad grant of powers of local self-government by the amendment referred to. Section 3, of Article XVIII, reads as follows:

> "Municipalities shall have *authority to exercise all powers of local self-government* and to adopt and enforce within their limits such local police, sanitary and other similar regulations as are not in conflict with general laws." (Emphasis added.)

In the first case decided by the Supreme Court after the adoption of Article XVIII, State ex rel. Toledo v. Lynch, 88 Ohio St. 71, the court speaking on the effect of the amendment said:

> "But the amended article authorizes the electors of the municipality to secure some *immunity* from the uniform government which it perpetuates as the primary status of all municipalities, and to entitle their municipality 'to exercise *all powers of local self-government*'." (Emphasis added.)

In the case of Fitzgerald v. Cleveland, 88 Ohio St. 338, decided shortly after the first case above noted, it was held:

> "Under Sections 3 and 7, Article XVIII, as so amended, municipalities are authorized to determine what officers shall administer their government, which shall be appointed and which elected, that the nomination of elective officers shall be made by petition by a method prescribed, and elections shall be conducted by the election authorities prescribed by general laws."

In a subsequent case, Billings v. Cleveland Railway Company, 92 Ohio St. 478, the court after referring to the case of Ravenna v. Pennsylvania Co., supra and the doctrine there announced, added this comment:

> "The manifest purpose of the amendment of 1912 was to alter this situation and to add to the governmental status of the

> municipalities. The people made a new distribution of governmental power. The charter of a city which has been adopted in conformity with the provisions of Article XVIII, and which does not disregard the limitations imposed in that article or other provisions of the constitution, finds its validity and its vitality in the constitution itself and not in the enactments of the general assembly. *The source of authority and the measure of its extent is the constitution.* The powers conferred by such a charter, adopted within the limitations stated, are not affected by the general statutes of the state."

The court then quoted from the opinion of Judge Shauck in the Lynch case, as follows:

> "It follows that all laws in force when the latter (the new constitution) took effect, and which were not inconsistent with it, would have remained in force without an express provision to that effect: and all inconsistent laws fell simply because they were inconsistent; in other words, all repugnant laws were repealed by implication."

In 28 Oh. Jur., page 228, it is said:

> "The provisions of Home Rule charters, adopted pursuant to the authority granted by Sec. 7 of article 18 of the Constitution, and of ordinances adopted pursuant to the authority of Sec. 3 of such article, in so far as they constitute an exercise of the powers of local self-government conferred by such sections, as distinguished from mere police regulations, and in so far as they comply with constitutional requirements and do not exceed constitutional limitations, supersede provisions of general laws on the same subject, in so far as concerns their operation within the municipality."

The right of the municipality under home rule, to deal with matters relating to its own government and its own affairs in a manner differing from the state laws has been established by numerous decisions. Among others, the regulation of the weight and load of vehicles (Froehlich v. Cleveland, 99 Ohio St. 376;) the adoption of a standard of time, different from the standard established by the legislature (State ex rel. Cist v. Cincinnati, 101 Ohio St. 354;) the employment and operation of initiative and referendum (Dillon v. Cleveland, 117 Ohio St. 258;) the manner and time of publication of ordinances (State ex rel. Hile v. Cleveland, 26 Oh. App. 265;) fixing the salaries of councilmen (Mansfield v. Endly, 38 Ohio App. 528;) authorizing women to vote at municipal elections,

in spite of constitutional provision in Section 1, Article V of the Constitution limiting the right of suffrage to male citizens of the United States (State ex rel. Taylor v. French, 46 Ohio St. 172;) and a very large number of other situations involving operation of municipal affairs. Instances might be cited indefinitely, in which the Supreme Court and lower courts have recognized the sweeping effect of Section 3 of Article XVIII of the Constitution.

In the earlier decisions, it was considered that in order to exercise these broad powers of local self-government the municipality must have adopted a charter but this limitation was done away with by the decision in Perrysburg v. Ridgeway, 108 Ohio St. 245, which held that the enjoyment of these powers does not depend upon the adoption of a charter but they may be exercised by all municipalities.

I call particular attention to the case of Mansfield v. Endly, 38 Ohio App. 528, which dealt directly with the power of a municipality to fix the salaries of its councilmen, in direct defiance of a general statute limiting such salaries. The court held:

> "4. Municipality's constitutional powers of 'local self-government' authorize measures pertaining exclusively to municipality, in which people of state have no interest (Article XVIII, Section 3, Constitution).
>
> "5. Ordinance fixing councilmen's salaries held within constitutional powers of 'local self-government' and not unconstitutional as contravening legislature's power to control municipal indebtedness (Article XIII, Section 6, and Article XVIII, Sections 2, 3 and 13, Constitution.)"

In the course of the opinion at page 535, it was said:

> "By the expression, 'to exercise all powers of local self-government,' we hold it to be understood that *a municipal corporation may enact all such measures as pertain exclusively to it, in which the people of the state at large have no interest or concern,* and which they have not expressly withheld by constitutional provision. Applying this understanding to the ordinance in question, we are of one mind that *the people of the state of Ohio outside the corporate limits of the city of Mansfield are not interested in the amount of the salary paid by it to its councilmen,* and that therefore the subject matter of the ordinance is purely one of local concern; * * *" (Emphasis added.)

This decision was affirmed by the Supreme Court without report in

124 Ohio St. 652, and while the affirmance was not directly on the point above noted, I do not find that the decision has been challenged. The case seems to me to be particularly applicable to the present question since the granting of sick leave with pay certainly does in a sense, form a part of the compensation of municipal officers and employees. The language of the Supreme Court in the case of State ex rel. Hackley v. Edmonds, 150 Ohio St. 203, adds weight to the holding in the Mansfield v. Endly case. The court said at page 216 of the opinion:

> "It would seem obvious not only from what this court has said with reference to the selection of municipal officers as being a matter of purely local concern, but also from the dictates of common sense, that the method of selection of municipal officers, their compensation and their purely local duties are matters which do not conflict with any general problem or concern of the state at large."

In exercising its power, given by Section 4 of Article XVIII, to acquire and operate public utilities, statutes which in any way limit or interfere with such power are held invalid. Dravo-Doyle v. Orville, 93 Ohio St. 236; Power Co. v. Steubenville, 99 Ohio St. 421; Lima v. Public Utilities Co., 100 Ohio St. 416; State ex rel. v. Weiler, 101 Ohio St. 123.

In the case of Power Co. v. Steubenville, supra, the court, speaking of the power given municipalities by that section, and of statutes inconsistent therewith, said:

> "And if there were any conflict between the provisions of the constitution and the provisions of the statute of the state, *existing at the time or enacted since* this constitutional amendment was adopted, such statute must fall." (Emphasis added.)

Section 2 of Article XVIII provides in part:

> "General laws shall be passed to provide for the incorporation and government of cities and villages; * * *

This is the basis on which the municipal code rests, and forms what Judge Shauck, in State ex rel. Toledo v. Lynch, supra, called the "primary status" from which, by virtue of Sections 3 and 7 of the same article, municipalities might gain some "immunity." If we look to the provisions of the municipal code, we find abundant authority, aside from the "powers of local self-government" granted by Sections 3 and 7, of Article XVIII,

authorizing municipalities to fix the compensation of their employes. See Sections 4210, 4213, 4214 and 4219 as to "salaries and compensation" of *all officers and employes* of cities and villages.

While we cannot consider sick leave benefits as an actual part of the compensation of a public officer or employe, yet they are provisions which improve his working conditions, and perhaps give him a greater enjoyment of his wages or salary. However, sick leave benefits and salary seem to be closely related, for it is evident that if the sick leave of an employe should be reduced, or even if wholly denied, he might be compensated by a substantial increase in his salary. Or the reverse might be true.

I have no hesitancy in holding that in so far as concerns the granting either of salary, wages or sick leave to the officers and employes of a municipality whose duties pertain to strictly municipal affairs, the municipality is supreme, and the legislature cannot interfere in any way. Accordingly, as to such employes the municipality could, either by a charter provision, or in the absence of such provision, by ordinance, grant as much or as little of such benefit as it saw fit, or even withhold the same entirely.

At the same time, it is freely conceded that as to employes of boards of education, the municipality has no authority. Likewise as to employes of boards of health, even though such boards are appointed by the mayor, in case of city districts, and are financed by municipal funds. This is true because the matter of public health is held to be not of local but rather of statewide concern. The Supreme Court, considering the Hughes Act (108 Ohio Laws, part 1, 236) and the Griswold Act (108 Ohio Laws, part 2, 1085) in the case of State ex rel. Mowrer v. Underwood, 137 Ohio St. 1, held:

> "When the state, by legislative enactment, withdraws from cities the health powers previously granted to them and transfers them to newly created city health districts, such health districts become agencies of the state government, and their employees are governed by state law."

Coming to the police and fire departments, we must reach a somewhat different conclusion. Members of these departments are by general law, clearly municipal employes. The council of a city is authorized to determine the number of the officers and other employes in each of these departments (Section 4374 and 4377 General Code). Their salaries

are fixed by the council and paid from the city treasury as a part of the general municipal operation.

But these departments of a city's organization are regarded by the courts as having functions in which the state at large has an interest and so are held to be subject to state control in some respects. State ex rel. Strain v. Houston, 138 Ohio St. 203; Cincinnati v. Gamble, 138 Ohio St. 221; State ex rel. Arey v. Sherril, 142 Ohio St. 574. In the Houston case the court considering Section 17a, General Code, prescribing the eight hour shift for city firemen, held:

> "Fire protection is a matter of concern to the people of the state generally, and when the Legislature enacts general laws to *make more efficient the management of fire departments within the cities* for the protection of persons and property against the hazards of fire, the cities of the state may be required within reasonable limits to provide funds for the purpose of carrying out such legislation." (Emphasis added.)

In the Gamble case the court held that cities were required to maintain and support police and fire pension systems as provided by general law, saying:

> "3. In matters of state-wide concern the state is supreme over its municipalities and may in the exercise of its sovereignty impose duties and responsibilities upon them as arms or agencies of the state.
>
> "4. The establishment of retirement allowances, pensions and death benefits for firemen and policemen is governed by Sections 4600 et seq., and 4616 et seq., General Code, respectively."

Accordingly, members of these forces come within the purview of Section 486-17c and are entitled to its benefits by way of sick leave as therein provided, and it would not be within the power of the municipality by whom they are employed to reduce that allowance. But there is nothing in that statute or any other law that would prevent the municipality from granting them additional allowances of the same or a different nature. Section 486-17c does not place any ceiling on the allowance of sick leave benefits.

You have presented two questions which involve the pension funds for policemen and firemen established under Section 4600 et seq., of the General Code. These raise the question whether a city may enact legis-

lation to provide additional sick leave benefits for policemen and firemen who are injured while acting either within or outside of their line of duty and entitled to benefits from one or the other of these pension funds. It should be noted that the laws pertaining to these funds provide for retirement for total or partial disability, but there is no provision in these statutes for *temporary* disability allowances. It may be presumed that a man who is temporarily disabled is still considered as an employe and entitled to such sick leave benefits as are provided for employes. Under the statutes above referred to, relating to the pension funds, disability benefits are allowed whether the injury is sustained within or outside of the performance of the officer's duties, but with different conditions and varied amounts. It seems to me that when he goes on retirement for partial or total disability, he is no longer in active service, and ceases to be an employe, and would not therefore, come within any provision made by law or ordinance for sick leave benefits.

There is a provision found in Section 4612-4a of the General Code, whereby a fireman who has been granted disability benefits may thereafter "be restored to active duty as a member of the fire department", and in such case be given credit at the rate provided in the law toward retirement for the time he was so disabled, and entitled to be paid such disability benefits. I find no similar provision as to the police pension fund.

It should be pointed out that retirement is not compulsory for a policeman or fireman who has been injured or otherwise incapacitated. If his disability is of uncertain extent or duration, it may seem best to the municipality instead of retiring him, to hold him as an employe and grant him relief or sick leave beyond that allowed to employes generally. This, in my opinion is within the power of the municipality by reason of its broad powers of local self-government granted by the Constitution, and such allowances may be made whether the disability was incurred in or out of the line of duty.

Some years before the adoption of the Home Rule amendment, the General Assembly sanctioned this practice, in part at least, by the enactment of Section 4383, General Code, 96 Ohio Laws, 72, which reads as follows:

> "Council may provide by general ordinance for the relief out of the police or fire funds, of members of either department temporarily or permanently disabled *in the discharge of their duty.*

> Nothing herein shall impair, restrict or repeal many provision of law authorizing the levy of taxes in municipalities to provide for firemen's police and sanitary police pension funds, and to create and perpetuate boards of trustees for the administration of such funds." (Emphasis added.)

It will be observed that the special relief allowed to officers by this section is limited to disability incurred "in the discharge of their duty."

Coming to your supplementary request, regarding the employes of the City of Cleveland, in its transit system, I note from the letter of your Cleveland Examiner that the charter of that city delegates to the Transit Board full authority in the maintenance and operation of its transit system, and provides inter alia as follows:

> "The salary or compensation of employes of the transit system shall be in accordance with the prevailing rates of salary or compensation for services rendered under similar conditions of employment, and of vacation, sick leave and retirement privileges for like employment in the industry generally and without reference to other departments or divisions of the City of Cleveland."

You further state that the transit board has established provisions for sick leave which are not in conformity with Section 486-17c of the General Code. Your question is as follows:

> "Must the Transit Board conform to the provisions of Section 486-17c of the General Code with regard to 'sick leave' for its employes, or may it adopt regulations which provide for a lesser allowance?"

What I have already said as to the right of a municipality to establish its own provisions as to sick leave for its employes generally, will apply equally here. As already pointed out, a municipality in the operation of its public utilities is wholly beyond the reach of the legislature, and accordingly, Section 486-17c, General Code, can have no bearing on the employes in question.

Inasmuch as the conclusions I have indicated are not in accord with the rulings of my predecessor as contained in Opinion No. 1650, rendered April 12, 1950, I feel obliged to overrule the same and to hold, in answer to the questions which you have submitted to me:

1. A city may provide by appropriate legislation for sick leave benefits for its employes, except policemen and firemen, and such pro-

visions are not in any way subject to the provisions of Section 486-17c of the General Code, but may be either greater or less than specified in said Section 486-17c.

2. A city may provide sick leave benefits for members of its police force and firemen which may be greater but not less than those provided in Section 486-17c, General Code.

3. Policemen and firemen while receiving pensions or allowances for partial or total disability under the provisions of the statutes relating to police and firemen's pension funds, Section 4600 et seq., General Code, are not municipal employes, and do not come within the provisions of law or ordinance granting sick leave allowances to public employes.

4. When a policeman or fireman has suffered disability, either within or outside his line of duty, and is eligible to retirement in the police or firemen's pension fund, a municipality may, in lieu of retiring him, provide for him relief by way of sick leave or otherwise, beyond the sick leave allowances provided for employes generally.

5. The actions of a city in providing for sick leave benefits may be a charter provision, or by ordinance in case the charter does not so provide. Any city not having a charter may make such provision by ordinance.

6. The Cleveland Transit Board is, by the terms of the charter of the City of Cleveland endowed with all the powers of the city, both legislative and administrative in the management and operation of the city's transit system, and may make such provisions as it sees fit for sick leave benefits for its employes, and such provisions will not be in any way subject to the provisions of Section 486-17c of the General Code.

Respectfully,

C. WILLIAM O'NEILL
Attorney General