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TWO ASSISTANT FAIR MANAGERS MAY BE APPOINTED IN THE UNCLASSIFIED SERVICE CLASSIFICATION—WHERE SUCH POSITIONS ARE ESTABLISHED THEY ARE ALLOCATED TO THE APPROPRIATE CLASSIFICATION BY THE DIRECTOR OF STATE PERSONNEL. §§991.02, R.C., 143.09, R.C.

SYLLABUS:

1. Where pursuant to Section 991.02, Revised Code, two assistant managers are appointed by the general manager of the Ohio expositions commission, both may be appointed in the unclassified service.

2. Where such positions are established, the director of state personnel should allocate such positions to the appropriate classification as found in Section 143.09, Revised Code, and the salary for the positions will then be subject to the pay range established by Section 143.10, Revised Code, for the particular classification.

Columbus, Ohio, April 20, 1962

Hon. James Hyslop, Chairman
Ohio Expositions Commission
Ohio State Fairgrounds, Columbus 11, Ohio

Dear Sir :

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

“The Ohio Expositions Commission would like to appoint two Assistant Fair Managers at this time. They would like to keep these men in the unclassified category so that they may serve at the pleasure of the Commission and we would like to be free to prescribe and adjust the salaries of these two men at the discretion of the Commission.

“All of this raises two questions which I trust you will be able to answer for us :

“1. May we appoint two Assistant Fair Managers in the unclassified service?

“2. Since the law does not prescribe salaries for these jobs, may the Commission use its discretion in establishing and adjusting the salaries of the men appointed?”

In reference to your first question, Section 991.02, Revised Code, reads in pertinent part as follows :

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“The *commission shall employ* and prescribe the powers and duties of a general manager who shall serve in the unclassified civil service at a salary to be fixed by the commission not to exceed thirteen thousand five hundred dollars per annum. *The general manager may employ such assistant managers as he and the commission may approve.* At no time shall such assistant managers exceed three in number, one whom shall be appointed in the classified civil service and *two in the unclassified civil service.*”

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(Emphasis added)

While no specific provision is found as to the situation where only one or two assistant managers are appointed, the language used implies that two may be appointed in the unclassified service, and that one assistant manager must be in the classified service only when three are appointed. I thus answer your first question in the affirmative.

Your second question asks whether the expositions commission may set the salaries for the two assistant managers who are appointed in the unclassified service.

Section 991.02, *supra*, provide for the appointment of such assistant managers but is silent as to the setting of salary. It will be noted, however, that specific provision was made that the salary of the general manager is to be set by the commission; and if the salaries of the assistants were intended to be set by the commission, it would be assumed that similar specific language would have been used in that regard.

It appears, therefore, that such positions are subject to Section 143.09, Revised Code, which reads in part as follows :

“(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 classified hereby and assigned hereby to the pay ranges established in section 143.10 of the Revised Code, as follows :

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“(B) The director of state personnel shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements and desirable qualifications of the

classifications set forth in this section, *may allocate* and reallocate *any position, office or employment to the appropriate class among those set forth in this section* on the basis of the duties, responsibilities, requirements and qualifications of such positions, offices or employments, *may assign* and reassign *employees to the appropriate classifications* on the basis of the actual duties being performed, and may require appointing authorities to furnish the director with such information with respect to personnel actions, including data pertinent to position control, as the director may deem necessary and upon such forms as the director may prescribe.

“* * *

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(Emphasis added)

The positions here considered are paid in whole or in part by this state and are not excluded under Sections 143.09 and 143.10, Revised Code. I thus conclude that under division (B) of Section 143.09, *supra*, the director of state personnel should allocate the positions in question to the appropriate classification as found in Section 143.09, and that the salary for those positions will then be subject to the pay range established by Section 143.10, *supra*, for the particular classification.

Concluding, it is my opinion and you are advised:

1. Where pursuant to Section 991.02, Revised Code, two assistant managers are appointed by the general manager of the Ohio expositions commission, both may be appointed in the unclassified service.
2. Where such positions are established, the director of state personnel should allocate such positions to the appropriate classification as found in Section 143.09, Revised Code, and the salary for the positions will then be subject to the pay range established by Section 143.10, Revised Code, for the particular classification.

Respectfully,

MARK McELROY

Attorney General