



Communiqué

To: Board Members, Treasurers, Superintendents, OCSBA Attorneys
From: Richard J. Dickinson, General Counsel
Re: **Board member compensation**
Date: August 2, 2002

On November 1, 2001, OSBA sent a *Communiqué* discussing board member compensation and steps boards might take to implement a change. The General Assembly has now passed Amended Substitute Senate Bill 187, a bill OSBA proposed, which provides school boards with some additional options regarding board member compensation. This *Communiqué* will attempt to explain the options available to your board of education after the new law becomes effective on September 20, 2002.

Amended Substitute Senate Bill 187

The new law enacts two important changes from current law. First, it raises the maximum compensation each board may authorize for its members from the current limit of \$80 per meeting to \$125 per meeting. Second, the new law allows, for the first time, boards of education to authorize compensation to their members for attending "an approved training program." The maximum limits set for attending a training program are \$60 per day per board member if the program is three hours or less and \$125 per day per board member if the program is longer than three hours. These new limits apply to members of all boards of education: city, exempted village, local, joint vocational school and educational service centers. There was no change made to the law that permits JVS and educational service center board members (only) to receive reimbursement for mileage to and from board meetings.

IMPORTANT: These new compensation levels are not self-executing. A board must act (or have acted) to authorize payments that are made possible by the law.

Constitutional limits

As discussed in the November 1, 2001 *Communiqué*, the provisions of Article II, Section 20 of the Ohio Constitution limit when changes in board member compensation may go into effect. Essentially, that constitutional provision states that no change in compensation shall affect the compensation of any person during the term of office in which the change is made.

The Ohio Attorney General has interpreted Article II, Section 20 to apply to school board members and to prohibit changes in compensation from affecting board members during the term of office during which the change was made. This limit applies to changes passed by a board and to changes made by the General Assembly. This is true even if the board may previously have adopted a resolution providing for the maximum compensation allowable by law (without stating a dollar amount), prior to board members starting new terms.

When can a change be effective?

The earliest any currently sitting board member could receive an increase in compensation is when he/she begins a new term of office. For boards other than joint vocational school boards, this would be January 1, 2004 at the earliest. NOTE: An appointed board member can receive an increase whenever he/she begins a term, if the board had previously authorized it and the legislation authorizing it had become effective.

Practical advice

If your board previously adopted a resolution stating that all members of the board will be compensated at the maximum rate authorized by law, then, beginning January 1, 2004, board members beginning new terms will receive \$125 per meeting attended, subject to any limit on the number of meetings enacted by your board. Some boards adopted a similar resolution with an effective date of January 1, 2006, so that all board members would receive the increase in compensation at the same time. If your board did so, all board members will begin receiving \$125 per meeting beginning January 1, 2006. No further action by the board is required in either situation.

If your board has set a specific dollar amount per meeting as board member compensation, it could act anytime prior to December 31, 2003 to change that amount and have the change be effective either January 1, 2004 or January 1, 2006 as described above.

JVS board members

Although we have found no precedents dealing specifically with JVS board members, we expect the constitutional restriction to apply to them in the same manner as it applies to other school board members, despite the fact that JVS board members are appointed from participating city, local, exempted village and educational service center boards. Thus, any change in compensation resulting from either Amended Substitute Senate Bill 187 or JVS board action, could not affect any person serving on the JVS board at the time, until the person began a new (appointed) term of office on the joint vocational school board.

Compensation for training

Amended Substitute Senate Bill 187 allows, for the first time, board members to be compensated for attending training sessions. Because the law uses the term "compensation," we believe the constitutional prohibition against changes during a term of office apply to compensation for attending an "approved training program," just as it does to compensation for attending board meetings. If your board wishes to authorize such payments, it must adopt a resolution so stating. The statutory dollar amounts are maximums and your board could set lower amounts if it so desires. The maximum payment permitted under the law is \$60 per board member per day per meeting attended if the program is three hours or less and \$125 per board member per day per meeting attended if the program is longer than three hours. The term "approved" is not defined in the law, but OSBA suggests the board take action to approve each training program a board member attends.

Compensation for training is subject to the same in-term restrictions as meeting pay. This means, for example, that if your board passes a resolution to allow for training compensation by December 31, 2003, persons currently serving on the board could begin receiving training pay once they begin new terms in office. Please note that a board should act specifically to authorize training compensation. A motion or resolution that increases only meeting pay would not appear to allow board members to receive compensation for training.

Please contact OSBA's Division of Legal Services or your board counsel if you have any questions.

The information in this Communiqué is intended as general information. It should not be relied upon as legal advice. If legal advice is required, the services of an attorney should be obtained.