OFFICIAL OPINION NO. 8

April 18, 1957

Mr. T. M. Hindman
State Examiner, State Board of Accounts
304 State House
Indianapolis, Indiana

Dear Mr. Hindman:

This is in reply to your letter of March 21, 1957, in which you ask for an Official Opinion on the question of whether Senate Enrolled Act No. 40, Chapter 81, enacted by the General Assembly of 1957, under sponsorship of the County Officers' Salary Study Commission, created by Chapter 27 of the Acts of 1955, applies to the charges not to exceed One Dollar [$1.00] made by health officers for certificates of birth, death and stillbirth, under the Acts of 1949, Ch. 157, Sec. 1236, as found in Burns' (1949 Repl.), Section 35-2102.

Senate Enrolled Act No. 40, Chapter 81, Acts 1957, provides as follows:

"SECTION 1. All county officers in this State shall charge and collect for preparing or proofing any submitted copy of any transcript of any record or copy of any record or instrument in all cases, when required by law or ordered by the court or requested by any parties, either in typewritten, longhand, or photostatic form, per page, legal size, or part thereof, thirty-five cents and such officer shall charge and collect in addition thereto for each certificate under seal attached in authentication of any such transcript or copy, fifty cents. Said fees shall be the only legal charge for such service and such fees are to be the property of the county and shall be paid in to the county general fund as other fees are paid: Provided, however, That no fee shall be charged for such service in any case now provided by law that no charge be made.

"SEC. 2. Each county officer performing such services shall place upon the instrument, transcript or copy as provided in section 1 of this act, an identification number. Such number shall also be recorded in a proper record to be prescribed by the state board of
accounts, which record shall show in addition thereto the amount of fees collected, date collected, a brief description of the instrument or copy recorded and such other information as is necessary for complete identification of the copy.”

It is a general rule, felt here applicable, that in construing a statute a court will look to the general purpose and scope of the statute to determine the legislative intent.

City of Indianapolis v. Evans (1940), 216 Ind. 555, 567, 24 N. E. (2d) 776;


This general rule when applied to Senate Enrolled Act No. 40, supra, would appear to limit that statute’s effect to transcripts and copies of official records, since it deals with typewritten, longhand or photostatic copies by the page and certifications by the proper official that such are true copies. The statute further provides that no fee should be charged in any case where none is now provided by law.

Burns’ 35-2102, supra, provides as follows, in part:

“The local health officer may make a charge not in excess of $1.00 for each certificate of birth, death or stillbirth registration * * *.” (Our emphasis)

The above statute does not fix a charge or fee but rather provides for a permissive charge not in excess of One Dollar [$1.00] by the health officer to compensate him for his services. This fact would exclude the application of Senate Enrolled Act No. 40, Ch. 81, Acts 1957, supra, which limits the application of that statute only to situations where the law now fixes a fee or service charge. It is further to be noted that the last above quoted statute provides for three classes of situations where not even a permissive charge shall be made, to-wit:

“1. To establish his age or to establish the dependency of any member of his family in connection with his service in the Armed Forces of the United States.
"2. To establish his age or to establish the dependency of any member of his family in connection with a death pension or disability pension of any person who is serving or has served in the Armed Forces of the United States.

"3. To establish or to verify the age of a child in school who desires to secure a work permit."

It also appears that the above statute deals with certificates of registration and not copies thereof, which in my opinion would distinguish the charges made by local health officers for these original certificates from the class of certificates designated in Senate Enrolled Act No. 40.

Senate Enrolled Act No. 40, supra, concerns copies and transcripts of official records, which terms are synonymous and defined as "The transcript or double of an original writing." The word "certificate" is entirely different and is defined as follows:

"A certificate being a writing giving assurance that a thing has or has not been done, that a fact exists or does not exist." See "Words and Phrases," Vol. 6.

It thus becomes apparent that the health officers' certificate is different from the transcripts and copies that are dealt with in Senate Enrolled Act No. 40.

The above quoted statute is a part of the "Public Health Code of Indiana" and makes no provisions for the disposition of said fees for such certificates when collected by health officers. A similar question was presented and dealt with under the prior statutes in 1945 O. A. G., page 516, No. 117. It was then ruled that the charges made under a similar statute by health officers became the personal funds of such health officers. Acts of 1949, Ch. 157, as found in Burns' (1949 Repl.), Sections 35-101 to 35-3809, known as the "Public Health Code of Indiana," repealed many former statutes on this subject, including the ones construed in Official Opinion No. 117, supra. However, a review of said repealed statutes and their counterparts as now found in the "Public Health Code of Indiana," supra, would lead to the same conclusion as to the disposition of said fees.
I am therefore of the opinion that Senate Enrolled Act No. 40, *supra*, does not apply to the charges made by local health officers pursuant to the provisions of Burns' 35-2102, *supra*, for certificates of birth, death and stillbirth.

OFFICIAL OPINION NO. 9

April 26, 1957

Honorable Noble Ellis
Chairman, Alcoholic Beverage Commission
201 Illinois Building
Indianapolis 4, Indiana

Dear Mr. Ellis:

I am in receipt of your request for my Official Opinion in answer to the following question:

"The Indiana Alcoholic Beverage Commission is concerned about the effect of the 1957 Senate Enrolled Act No. 198, in relation to the Acts of 1945, Ch. 357, Sec. 5, as found in Burns' (1956 Repl.), Section 12-436, specifically in respect to the standard of time for the opening and closing times for the sale of alcoholic beverages.

"I, therefore, request your Official Opinion as to the applicable standard of time when the sale of alcoholic beverages should begin and cease, as now provided by law."

The Acts of 1945, Ch. 357, Sec. 5, Burns' (1956 Repl.), Section 12-436, *supra*, provides as follows:

"On Sundays, Memorial Day, on New Year's Day and on Christmas Day the sale of alcoholic beverages shall be unlawful from 12:01 o'clock in the morning, *Central Standard Time*, and from one o'clock in the morning, *Central Standard Time*, on New Year's Day, in the case of bona fide fraternal clubs and patriotic service clubs as such clubs are defined in subsection (c), section 1, of chapter 197 of the Acts of 1937, until seven [7:00] o'clock the next morning, *Central Standard Time*, and such sales shall be unlawful on primary