

## OPINION 12

One, Two and Three, have the authority to contract with a water utility for annual rental of fire hydrants even though the fire hydrants directly benefit only part of the area included in such taxing district.

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### OFFICIAL OPINION NO. 12

March 26, 1956

Mr. Wilbur Young  
State Superintendent of Public Instruction  
227 State House  
Indianapolis 4, Indiana

Dear Mr. Young:

Your letter of March 6, 1956, has been received and reads as follows:

“Pursuant to the provisions of Section 2, Chapter 226, of the 1949 Acts, the five townships of Brown County were consolidated to form the Brown County school corporation. This consolidation was effected in 1949.

“May I have your official opinion on the following question: Do the provisions of Chapter 97, of the 1927 Acts as amended, same being Burns’ Indiana Statutes Section 28-4307, which provides for teachers becoming tenure teachers in certain cases, apply to this school corporation?”

The Acts of 1949, Ch. 226, as referred to in your letter, is found in Burns’ Indiana Statutes (1948 Repl.), Section 28-2431 *et seq.*, Section 11 of said Act, as found in Burns’ Indiana Statutes (1948 Repl., 1955 Supp.), Section 28-2441, provides, in part, as follows:

“The government of the common schools of the county shall be vested in the board, and the board shall function with all the authority, powers, privileges, duties and obligations heretofore granted to or required of school cities and their governing boards generally under the laws pertaining thereto with reference to

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\* \* \* the employment and dismissal of school personnel \* \* \*.”

The Acts of 1927, Ch. 97, Sec. 1, as amended, as found in Burns' Indiana Statutes (1948 Repl.), Section 28-4307, being the statute providing for the acquiring of Teachers' Tenure applies to teacher contracts "in any school city corporation or in any school town corporation."

Since the above consolidation statute provides that in the carrying on of its school functions in certain specified respects, including the employment and dismissal of school personnel, it is controlled by the law governing school cities and thereby takes on the classification of a school city for such purpose, and therefore, would be within the purview of the tenure statute. [Harris *et al.* v. State *ex rel.* Allen (1937), 212 Ind. 386, 8 N. E. (2d) 594.]

In construing different consolidation statutes a similar result was reached in prior official opinions of this office found in 1943 O. A. G., page 540 and 1947 O. A. G., page 204, No. 41. While the last-referred to official opinion is superseded on one question there determined regarding the effect of consolidation on teachers already having tenure status, by the decision of the Supreme Court in the case of State *ex rel.* Tittle v. Covington Community Consolidated Schools of Fountain and Warren Counties *et al.* (1951), 229 Ind. 208, 96 N. E. (2d) 334, said opinion is not affected on the construction there made that teachers could acquire tenure after consolidation.

I am, therefore, of the opinion the provisions as to acquiring tenure by teachers under the Acts of 1927, Ch. 97, as amended, *supra*, apply to the above-referred to consolidated county school corporation after its consolidation.