

OFFICIAL OPINION NO. 15

April 5, 1956

Mr. A. L. Fossler, Chairman  
State Board of Tax Commissioners  
404 State House  
Indianapolis, Indiana

Dear Mr. Fossler:

This is in reply to your recent letter which reads as follows:

“The State Board of Tax Commissioners is in receipt of a Resolution of the Common Council of the City of Gary, Indiana, requesting a re-assessment of Calumet Township, Lake County, Indiana.

“Your Official Opinion is requested as to whether, under and pursuant to the provisions of Burns’ 64-1019, such re-assessment of real estate may be made in the year 1956 and, in the alternative, as to whether the State Board of Tax Commissioners has jurisdiction to make an order in the year 1956 for such re-assessment to be made in the year 1957.”

The Acts of 1919, Ch. 59, Sec. 152, as last amended by the Acts of 1953, Ch. 144, Sec. 1, and found in Burns’ Indiana Statutes (1951 Repl., 1955 Supp.), Section 64-1019, provides as follows:

“All assessments of real estate shall be made pursuant to the provisions of this act. Reassessment of real estate shall not be made more often than every four [4] years *or in any year in which there is a general election held for the election of any state, county or township officials, except upon the order of the state board of tax commissioners and as hereinafter provided.* Each person charged with the duty of making assessment valuations for taxation shall correct all errors of assessment of real estate which he may discover on the books either in the name of the person to whom the property is assessed or by change of ownership or in the description of the property or otherwise. The assessor shall annually assess any real estate or improvements found omitted and note and list all changes found in improve-

## OPINION 15

ments on real estate and make a return thereof to the county auditor, as of the year in which the same should have been first assessed. Reassessment of real estate and/or improvements thereon may be made in the following manner:

“(a) A petition for reassessment of real estate signed by not less than fifteen [15] per cent of the resident owners of taxable real estate in any township not containing an incorporated town or city, or not less than five [5] per cent of the resident owners of taxable real estate in any township containing all or any part of an incorporated city or town of five thousand [5,000] population or less, or not less than four [4] per cent of the resident owners of taxable real estate in any township containing all or any part of an incorporated city of more than five thousand [5,000] and not exceeding ten thousand [10,000] population, or three [3] per cent of the resident owners of taxable real estate in any township containing all or any part of an incorporated city of more than ten thousand [10,000] and not exceeding fifty thousand [50,000] population, or two [2] per cent of the resident owners of taxable real estate in any township containing all or any part of an incorporated city of more than fifty thousand [50,000] and not exceeding one hundred fifty thousand [150,000] population, or not less than one [1] per cent of the resident owners of taxable real estate in any township containing all or any part of an incorporated city of one hundred fifty thousand [150,000] population or more, according to the last preceding federal census, verified by the oath of one [1] or more of such signers and by a certificate of the county auditor stating that such signers constitute the required number of resident owners of taxable real estate of such township, *may be filed before March 31st with the state board of tax commissioners in any year which is not a general election year as defined above.* The state board of tax commissioners shall promptly examine said petition and determine whether the petition has been properly signed by the required number of petitioners and whether the last previous assessment for taxation made

upon real estate in such township as a whole or as to certain designated real estate and/or improvements thereon is not or has ceased to be an equitable and just valuation of such real estate or improvements thereon. If the state board of tax commissioners shall determine that the petition has been signed by the required number of petitioners and that the present valuation is inequitable, then such board shall order a reassessment of the real estate in such township, either in whole or as to certain designated real estate and/or improvements. Such order shall specify the time within which such reassessment shall be completed and the date as of which such reassessment shall become effective.

“(b) If in the discretion of the state board of tax commissioners it shall be deemed necessary, in order to maintain an equitable and just valuation, that real estate of any township or townships, county or counties or the state as a whole, or any specifically described real estate be reassessed in any year when no petition of resident owners of taxable real estate is presented as above provided for, *such state board of tax commissioners may, after March 31st of such year, adopt a resolution declaring its belief that such action is necessary.* When the state board of tax commissioners shall have adopted such a resolution, then the affected property owners shall be given ten [10] days’ notice by publication in two [2] leading newspapers published in each county in which the affected property is located, or if only one [1] such paper is published in such county, then in such paper. A hearing as to the necessity for such reassessment shall be held at the court house of each county in which the affected property is located, in the manner as above provided for the hearing of petition. After such hearing, the board shall have the power to order such reassessment. Such order for the reassessment of any real estate, whether of an entire township or townships, county or counties, the state as a whole, or of specifically described real estate shall specify the time within which such reassessment shall be completed and the date as of which such reassessment shall become effective. *No such order shall*

## OPINION 15

*be made for such reassessment in a general election year.*

“(c) In case of flood, fire or other disaster in which a substantial amount of property in any township has been partially or totally destroyed, the state board of tax commissioners shall cause a survey to be made and determine the unit or units in which the property has been partially or totally destroyed and order a reassessment of the property in such township or townships either in whole or in part. Such order may be made in any year, either a general election year or otherwise. No publication for hearing shall be necessary prior to the issuance of such order. The state board of tax commissioners shall specify in such order the time within which such reassessment shall be completed and the date as of which such reassessment shall become effective.

“(d) If on or before March 31st in any year, including any year in which there is a general election held for the election of any state, county or township officials, there shall be presented to the state board of tax commissioners a petition setting out the specific reasons, and signed by any township or county assessor, for a reassessment of any specifically described real estate and/or improvements thereon situated within the taxing district over which such township or county assessor has jurisdiction, or if on or before March 31st in any year, including any year in which there is a general election held for the election of any state, county or township officials, there shall be presented to the state board of tax commissioners a petition, signed and verified by the owner or owners of any real estate and/or improvements thereon, for a reassessment of any specifically described real estate and/or improvements thereon, before making an order for such reassessment pursuant to either of such petitions, the state board of tax commissioners shall give not less than ten [10] days' notice by publication in two [2] leading newspapers representing opposite political parties published in the county in which such real estate and/or improvements thereon is located, or if there be

only one [1] such paper in any such county, then in such paper. Such published notice shall state the number of petitions and the total amount of the requested reductions or increases and that a hearing will be held on such petition at the hour and place named in said notice, and that a detailed statement of the names of the persons requesting such reductions or increases, the description of the property and the amount of each specific reduction or increase is posted at the door of the county court house in the county in which the real estate involved is located and at the township assessor's office in the township in which the property is located, and at one other public place named in the notice within such township. Such published notice shall require the petitioners and taxpayers of the township to appear before the state board of tax commissioners or a representative thereof at the court house in the county seat of the county in which the township is located, and show cause, if any, why a reassessment of such real estate and/or improvements should or should not be made; and if such petitioner, or petitioners, do not appear or fail to show a good and sufficient cause why the reassessment petitioned for should be made, or if objecting taxpayers appear and show good cause why such reassessment should not be made, then the state board of tax commissioners shall not order such reassessment, but otherwise the state board of tax commissioners shall order the reassessment petitioned for. No reassessment of particular real estate and/or improvements shall be made except in the manner hereinabove provided." (Our emphasis)

In my opinion the foregoing statute is plain and unambiguous and not subject to construction.

Under subsection (a), above, a reassessment may be had upon petition of the taxpayers, which petition may only be filed prior to March 31st and in years which are not general election years. Since the year 1956 is a general election year, as the same is defined in said statute, the petition may not be filed in the year 1956 for a reassessment under subsection (a) of the foregoing statute and, consequently, neither a reassess-

## OPINION 15

ment nor an order for a reassessment to be made in the year 1957 may be made under the provisions of said subsection (a).

Under subsection (b) of this statute a reassessment may be had upon a resolution and after a hearing by the state board of tax commissioners. Under this subsection it is clear that the board may not order the reassessment in a general election year. You will note, also, that the first sentence of subsection (b) above only authorizes the adoption of a resolution for reassessment by the state tax board after March 31st in years "when no petition of resident owners of taxable real estate is presented as above provided for." This would eliminate the year 1956, which is a general election year when petitions cannot be filed.

The year 1957 is not a general election year and a petition for the reassessment of Calumet Township could be filed under the provisions of subsection (a) of this statute at any time therein prior to March 31, 1957, and the state board of tax commissioners may not adopt a resolution and otherwise proceed under subsection (b) of this statute until March 31, 1957. Therefore, neither a reassessment in the year 1956 nor an order in the year 1956 for a reassessment in the year 1957 is authorized under the said subsection (b) of this statute.

Subsection (c) of this statute is only applicable in cases of flood, fire or other disaster to property. These facts are not involved in your question, as I understand it, and, therefore, the said subsection (c) would not apply.

Subsection (d) of this statute deals with the reassessment of specific parcels of real estate and not with a general reassessment of a whole township. Therefore, this subsection (d) is not involved in your question.

In view of the foregoing, my answer to your question is as follows: Under the facts presented in your question, Calumet Township, Lake County, Indiana, may not be reassessed in the year 1956 nor can an order be made in the year 1956 for such reassessment to be made in the year 1957 under the provisions of Burns' Indiana Statutes (1951 Repl., 1955 Supp.), Section 64-1019, *supra*. However, a petition for such reassessment may be filed with the state board of tax commissioners at any time between January 1, 1957, and March 31, 1957, under

1956 O. A. G.

Burns' Indiana Statutes, Section 64-1019 (a), *supra*. If no such petition is filed in the year 1957, then the state tax board, in the exercise of its discretion may thereafter, during 1957, proceed under Burns' Indiana Statutes, Section 64-1019 (b), *supra*.

---

OFFICIAL OPINION NO. 16

April 9, 1956

Mr. Doxie Moore  
Administrative Assistant to the Governor  
206 State House  
Indianapolis 4, Indiana

Dear Mr. Moore:

We have received your letter of March 2, 1956, which reads as follows:

"I would like to have your opinion on the following question:

"Does a member of a state correctional institution Parole Board, who wants to run for the State Legislature, have to resign as a Parole Board member before he runs for the Legislature, or does he have to resign only if he is elected to the State Legislature, or can he serve in both positions at the same time?"

Inasmuch as you raise three separate questions, I will answer them in the following order:

(a) May one serve as a member of the Parole Board of a state correctional institution and as a State Legislator at the same time?

(b) Must such member of the Parole Board resign his position in order to run for election for State Legislator?

(c) Or can such Parole Board member run for the office of State Legislator and, if elected, resign his office as Parole Board member in order to assume his role as Legislator?

The Indiana Constitution, Art. 2, Sec. 9, provides in part as follows: