

the amount of such excess should be reappropriated before contracts are executed against such excess.

Further, if the purpose for which the bonds were issued and sold has been accomplished or abandoned, then Acts of 1949, Ch. 82, Sec. 1, as found in Burns' Indiana Statutes (1951 Repl.), Section 61-1205, requires that the legislative body of the governmental unit transfer any such unexpended balance to the bond and interest redemption or sinking fund to be used for the payment of interest-bearing indebtedness.

In closing, reference is also made to the provisions of Acts of 1937, Ch. 116, Sec. 1, as found in Burns' Indiana Statutes (1951 Repl.), Section 65-324 which authorizes the advisory board, by unanimous vote, to transfer any surplus in the bond fund of the township to the special school fund or tuition fund of such township, when all bonds and other evidences of indebtedness of such township issued or incurred for the construction of a school building have been paid.

---

OFFICIAL OPINION NO. 2

January 4, 1955

Mr. R. R. Wickersham  
State Examiner  
State Board of Accounts  
Room 304, State House  
Indianapolis 4, Indiana

Dear Mr. Wickersham:

Your letter of December 15, 1954, requesting my Official Opinion, reads as follows:

"Are clerks of the circuit courts, except those affected by Salary Limitation Law, entitled to a per diem fee of \$2.00 for time occupied with business of the court for receiving, filing and entering a transcript of a cause sent to it on change of venue from another county?"

The question presented by you has been considered in three (3) opinions of prior Attorneys General. Reference is made to 1938 O. A. G., page 21, 1943 O. A. G., page 583, and 1944

## OPINION 3

O. A. G., page 290, No. 69. In 1938 O. A. G., page 23, it was stated as follows:

“It is my opinion, therefore, that the clerk is entitled to but one per diem for his services in attending court in any particular calendar day. If the time of the court during that day is occupied with business sent to it on change of venue from another county, the clerk is entitled to charge to that county his per diem for attending court under the rules above announced \* \* \*.”

The applicable statutes are all cited in the prior opinions of the Attorney General.

It is my conclusion that services performed by a Clerk of a Circuit Court in connection with business sent to such Court on a change of venue from another county constitutes attending Court in regular, special, or adjourned term, or in chambers whereby a per diem fee of \$2.00 is authorized pursuant to Acts of 1927, Ch. 131, Sec. 2, as found in Burns' Indiana Statutes (1951 Repl.), Section 49-1302, Acts of 1933, Ch. 21, Sec. 7, as amended, as found in Burns' Indiana Statutes (1951 Repl.), Section 49-1007, and Acts of 1913, Ch. 210, Sec. 1, as amended, as found in Burns' Indiana Statutes (1946 Repl., 1953 Supp.), Section 2-1417.

---

### OFFICIAL OPINION NO. 3

February 14, 1955

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

Dear Mr. Young:

Your letter of February 2, 1955 has been received and reads as follows:

“A few days ago I referred a letter to you asking for an Unofficial Opinion concerning a member of the Terre Haute School Board who died after the time of the election and before she was to have taken office, as re-