

OFFICIAL OPINION NO. 50

November 30, 1955

Honorable W. O. Hughes
State Representative
403 Standard Building
Fort Wayne, Indiana

Dear Representative Hughes:

This is in reply to your letter of October 21, 1955, in which you request an Official Opinion as to the following:

“Chapter 98 of the Acts of the Indiana General Assembly of 1955 provides for an increase of salary for the various Township Advisory Boards. This Act under Section 2 contains an emergency clause.

“May I have an official opinion as to whether this act authorizes the payment of such increase in salary to Board members from and after March 8, 1955, the date of the approval of this Act.”

The Acts of 1899, Ch. 105, Sec. 5 was last amended by the Acts of 1955, Ch. 98, Sec. 1, as found in Burns' Indiana Statutes (1951 Repl., 1955 Supp.), Section 65-312, and provides as follows:

“The annual salary of each member of township advisory boards in townships of the first, second and third classes, may be set by said board in any amount not in excess of two hundred fifty dollars [\$250.00]. The annual salary of each member of township advisory boards in townships of the fourth, fifth and sixth classes, may be set by said board in any amount not in excess of one hundred fifty dollars [\$150.00]. The annual salary of each member of township advisory boards in townships of the seventh, eighth, ninth and tenth classes, may be set by said board in any amount not in excess of one hundred dollars [\$100.00]. *In making the levies for the township fund, said board may add a sum not exceeding the amount necessary to compensate the members of said board, as provided herein, for the service of each member during the year for which the levy is made, payable out of such fund,*

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to be paid to the members of said advisory board at the end of each year: Provided: Whenever any person shall serve as a member of a township advisory board less than the whole of any year, he shall be entitled to receive a fraction of such annual salary based upon the time actually served, which salary shall be due and payable at the end of the year, if he then be serving, or at the time of discontinuance of service if the service is discontinued prior to the end of the year." (Our emphasis)

It is a general rule of statutory construction that unless a contrary intention is expressed, statutes are treated as intended to operate prospectively and not retrospectively, see Chadwick, Treasurer *et al.* v. City of Crawfordsville (1939), 216 Ind. 399, 413, 24 N. E. (2d) 937.

From the language which I have underlined in the above quoted statute, township advisory boards are authorized to add a sum to the levy for the township fund sufficient to compensate the members of said advisory board for the service of each member for the year in which the levy is made.

Since there is nothing in the statute to indicate that it should operate retrospectively, I am of the opinion that the Legislature intended that the salary increases authorized in said above quoted statute be provided for in the making of the next levy for the township fund subsequent to the passage of said statute.

Under the law, the next levy for the township fund, after the passage of this Act, would be made on the last Tuesday in August of 1955, [Burns' 65-308 and 65-308a] and I am of the opinion that the purpose of the emergency clause contained in said above quoted statute was to make certain that said Act was in full force and effect so that the various advisory boards could act thereunder at the time for making the next levy for the township fund on the last Tuesday in August, 1955.