

OPINION 54

The Acts of 1937, Ch. 232, Secs. 8 and 14, as found in Burns' Indiana Statutes (1950 Repl.), Sections 15-1808 and 15-1814, have been construed in 1941 O. A. G., page 327, *supra*, as conferring authority upon the State of Indiana by the State Highway Commission to contribute towards the cost of an improvement under the provisions of the Soil Conservation Act, *supra*.

Sections 8 and 14 also confer like authority upon agencies of the State of Indiana. Section 3 of the Soil Conservation Act, *supra*, by express definition, includes subdivisions of the state within the definition of the words "agencies of the state." Therefore, construing Sections 3, 8 and 14 of the Soil Conservation Act, *supra*, together with the reasoning of the 1941 O. A. G., page 327, *supra*, it is my opinion that a county, through its Board of Commissioners has authority to contribute to a Soil Conservation District for the construction of a drainage project that confers benefits on a highway under control of such Board. However, the authority, under the statute, is not compelling but merely discretionary both as to the wisdom of the proposed drainage project and the amount of the contribution. It would be necessary, in my opinion, for the Board to have an available appropriation from which to make such contribution.

Since a County Highway Department acts under the Board of Commissioners, I think the decision on the question of contribution to any such project would rest with that Board.

OFFICIAL OPINION NO. 54

October 28, 1954

Margaret E. Morgan, M. D.
Commissioner of Mental Health
LaRue D. Carter Memorial Hospital
1315 West 10th Street
Indianapolis 7, Indiana

Dear Doctor Morgan:

This is in reply to your letter in which you requested an Official Opinion from this office as follows:

"Chapter 253 of the Acts of 1951 established certain procedures for the collection of the expense of main-

taining patients in our state mental institutions, and said in part as follows:

“The treasurer of the State of Indiana shall collect all amounts due under this act and all monies collected under this act shall be deposited with the state treasurer, except any money which may be recovered from the income or estate of any such indigent person, the relatives of such person or from any other persons, and shall be deposited into a fund to be known as the Mental Institutions Personal Service Funds, which fund shall be used for additional compensation for the employees of the state mental institutions and the same is hereby appropriated for such purposes.’

“The 1953 legislature passed an act entitled Chapter 130 of the Acts of 1953 which changed the 1951 Act, and this Act said in part as follows:

“All moneys collected shall be deposited each day by the superintendent of such institution in a designated public depository; and on the first day of each month, or within three days thereafter, all moneys so deposited shall be forwarded by the superintendent to the treasurer of state to be deposited in a special fund to be known as the “Mental Institutions Building Fund,” which fund shall be used for the construction, maintenance, remodeling or repairing of state hospitals for the mentally ill and for no other purpose.’

“This latter act became effective on July 1, 1953. There is presently being collected and there will be collected in the future sums of money for maintenance expense of patients for the period during which the 1951 Act was in effect. This money is presently being placed in the Mental Institutions Building Fund.

“I would like to have an official opinion as to whether or not money which is presently being collected for the period prior to the effective date of the 1953 Act should be placed in the ‘Mental Institutions Personal Service Fund’ or in the ‘Mental Institutions Building Fund.’”

OPINION 55

As you point out in your letter, the Acts of 1953, Ch. 130 amended the Acts of 1951, Ch. 253. It is well settled that when a section in an existing law is amended it ceases to exist and the section as amended supersedes such original section, and the section as amended becomes incorporated in and constitutes a part of the original act; and the original section is as effectually repealed and obliterated from the statute as if it had been repealed by express words. *Blakemore v. Dolan et al.* (1875), 50 Ind. 195, 204.

Consequently, after July 1, 1953, the effective date of the Acts of 1953, Ch. 130, the Mental Institutions Personal Service Funds ceased to exist, the monies therein having previously been ordered paid into the General Fund of the State by Acts of 1953, Ch. 152, p. 512.

I am therefore of the opinion that the portion of the Acts of 1951, Ch. 253, set forth in your letter to me, which established the Mental Institutions Personal Service Funds, is repealed and obliterated. Therefore, monies presently being collected either for the period prior to the effective date of the 1953 Act or for the present period should be placed in the Mental Institutions Building Fund.

OFFICIAL OPINION NO. 55

November 9, 1954

Mr. Harold F. Brigham, Director
Indiana State Library
140 N. Senate Avenue
Indianapolis, Indiana

Dear Mr. Brigham:

This is in reply to your letter requesting an Official Opinion which is in part as follows:

“Where, in an incorporated town, there exists a Class II library, which has accepted the provisions of the Library Law of 1947, as amended, and is authorized by its charter to serve the entire township in which it is situated, and where neither said incorporated town nor the said township is otherwise served by a library, and