

OFFICIAL OPINION NO. 56

July 20, 1953.

Mr. Sam J. Bushemi,
Member of House of Representatives,
3500 Connecticut Street,
Gary, Ind.

Dear Sir:

I have before me your letter of June 19, 1953 which reads as follows:

“Please give me an official opinion surrounding the following facts:

“Heretofore, the cities of Gary, East Chicago, and Hammond have requested and been allowed in their city budgets Barrett Law Clerk hire.

“A question has arisen this year, regarding the salaries as paid by the cities of Gary, East Chicago and Hammond for the Barrett Law Clerks employed by the Lake County Treasurer.

“The city budgets are being prepared by the above city officials and a clarification is necessary for the final presentation of the Barrett Law Clerk salaries to the respective appropriating bodies.

“Therefore, will you please give me an immediate official opinion as to the following question:

“Are the cities of Gary, East Chicago and Hammond each entitled to request and be allowed in their respective city budgets the sum of \$4,200.00 (annually) for Barrett Law Clerk hire as set out in Burns' Statutes 48-1224?”

The Acts of the General Assembly of 1933, Chapter 233, as amended, as found in Burns' Indiana Statutes Annotated (1950 Repl.), Section 48-1224 provides:

“In cities having a population of fifty thousand (50,000) or over and less than two hundred fifty thousand (250,000) as shown by the last preceding United States census, the annual salaries for officers herein

named shall be fixed by the common council *as hereinafter provided*, not to exceed the following amounts: Mayor, ten thousand dollars (\$10,000); controller, six thousand dollars (\$6,000); city clerk, four thousand five hundred dollars (\$4,500); county treasurer ex-officio city treasurer, fifteen hundred dollars (\$1,500); ex-officio city treasurer, charged with the collection of what is commonly called and referred to as Barrett Law assessments under and pursuant to an act of 77th General Assembly of the state of Indiana for the year of 1931 the sum of sixteen hundred dollars (\$1,600); also, deputy hire, forty-two hundred dollars (\$4,200); city judge, four thousand five hundred dollars (\$4,500); city attorney, five thousand dollars (\$5,000); city civil engineer, five thousand dollars (\$5,000); members of the common council, one thousand dollars (\$1,000) each; county auditor, for service to civil city, three hundred dollars (\$300); and the members of the board of public works, forty-five hundred dollars (\$4,500): Provided, That this section shall not apply to any city of the second class owning and operating two or more municipal utilities, other than sewage disposal plants, and all laws applying thereto now in effect shall remain in full force and effect: Provided, that nothing contained in this act shall be construed to repeal or amend any of the provisions of chapter 121 of the Acts of the General Assembly of 1943 or any act amendatory thereof."

By the 1950 federal census East Chicago, Gary and Hammond were shown to have a population of 50,000 or over and less than 250,000. The cities of East Chicago, Gary and Hammond do not own and operate two or more municipal utilities other than sewage disposal plants. Chapter 121 of the Acts of the General Assembly of 1943, although applicable to this Act, Section 48-1224, *supra*, is of no concern to the inquiry at hand.

Where the language of a statute is plain and free from ambiguity and not contradictory of former enactments, there is no room for construction.

Cheney v. State *ex rel.* Risk (1905), 165 Ind. 121, 74 N. E. 892;

1953 O. A. G.

Starr v. Board of Commissioners, Delaware County
(1906), 40 Ind. App. 7, 76 N. E. 1025, 79 N. E. 390.

Words and phrases are to be given their plain ordinary meaning unless such construction would manifestly defeat the legislative intent.

Hammell v. State (1926), 198 Ind. 45, 152 N. E. 161.

The language of the statute is clearly not intransigent with the intent of the legislature as it is expressed in the 1933 statute, *supra*.

It is therefore my opinion that the cities of Gary, East Chicago and Hammond respectively are entitled to request and be allowed in their respective city budgets the sum of \$4,200.00 annually for Barrett Law Deputy hire as set out in Burns' Indiana Statutes Annotated (1950 Repl.), Section 48-1224.

OFFICIAL OPINION NO. 57

July 20, 1953.

Hon. Crawford F. Parker,
Secretary of State,
State House,
Indianapolis, Indiana.

Dear Sir:

I have your request for an official opinion which reads in part as follows:

"We have reference to the Acts of 1937, Chapter 117, § 25, a part of the Gross Income Tax Law as amended, the same being found in Burns' Indiana Statutes Annotated, 1951 Replacement, Vol. 11, Part 2, § 64-2625, reading as follows:

" 'SECRETARY OF STATE—DUTIES—CORPORATIONS—CERTIFICATE OF DISSOLUTION OR WITHDRAWAL—WITHHOLDING.—The Secretary of State shall withhold the issuance of any certificate of voluntary dissolution of any corporation organized