

sional advisor. That is to say, a partner of the professional advisor or someone associated in such a capacity that if he won the competition some of the prize money would inure to the benefit of the professional advisor.

It is therefore my opinion that:

1. The twenty thousand dollar (\$20,000) appropriation is in addition to the fifty thousand dollar (\$50,000) appropriation and both appropriations are available to the State Office Building Commission.

2. An architect who assists the professional advisor would be barred from entering the competition only in the event, if by his winning the competition, benefits would inure to the professional advisor.

OFFICIAL OPINION NO. 89

October 8, 1953.

Mr. B. W. Johnson, Executive Secretary,
Ind. State Teachers' Retirement Fund,
336 State House
Indianapolis 4, Indiana.

Dear Mr. Johnson:

Your letter of September 21, 1953 has been received and reads as follows:

"The amendments to the Indiana State Teachers' Retirement Fund Law enacted in 1953, Chapter 149, Acts of 1953, provide for crediting a half year of service by combining it with one-half year in another school year. The language in question is found in Section 2, Sub-section (m) of the Act and reads as follows:

"'Not less than one hundred twenty (120) days of service in any one year or sixty (60) days service in each of two (2) different years, whether under contract or not, shall be required for one year of service credit.'

"The Retirement Fund is receiving many requests for credit under this clause, from teachers who re-

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ceived annuity during part of a year in which they taught 60 days or more but did not receive service credit.

“Under the law, as it has heretofore prevailed, a full year of service was required to receive a year of annuity credit. In such case the teacher was held not to be entitled to receive any annuity compensation during that year.

“The question now before us is whether or not we may grant service credit for one-half year, viz., 60 days or more, during a year in which she received annuity credit and allow her to retain the annuity paid to her for the other portion of the year; and whether in cases arising hereafter, annuity may be paid for a portion of the year when the teacher has received service credit for part of the year.”

The above quotation from the statute is part of Section 2, Chapter 149 of the Acts of the General Assembly of 1953, sub-section (m), same being Section 28-4511, sub-section (m), Burns' Indiana Statutes Annotated (1953 Supp.). The foregoing language of the statute is clear and unambiguous and authorizes a year's service credit for not less than 120 days in any one year or 60 days service in each of two different years. There is no qualification stated that it shall not apply to teachers who may have received annuity during any part of such years. Since such service credit is specifically authorized, any such qualification of such language would be a matter for the legislature and not one for this office by means of construction, as under the statute such teacher is not paid annuity benefits for the time she is actually teaching. Since the above language is a new provision of a beneficial nature to the teacher appearing only in the 1953 statute, *supra*, it would be applicable only to teachers claiming membership in the Teachers' Retirement Fund under the 1953 statute. Teachers are entitled only to those benefits contained in the particular fund under which they hold membership.

1952 O. A. G., page 108, No. 27;

1949 O. A. G., page 435, No. 116.

1953 O. A. G.

It is therefore my opinion:

1. A teacher may receive service credit for one-half of a year as provided in Chapter 149, *supra*, and also receive an annuity for the other portion of the year.

2. In the converse to the answer to Question No. 1, a teacher may be paid annuity for a portion of a year when she has received service credit for part of the same year.

OFFICIAL OPINION NO. 90

October 8, 1953.

Mr. B. W. Johnson, Executive Secretary,
Ind. State Teachers' Retirement Fund,
336 State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of September 3, 1953 has been received and reads as follows:

"Your official opinion is requested as to whether a teacher not now active in a teaching service in Indiana may receive an annuity based upon a record of service in which the final year, or years, were taught in another state. This question arises under the final provision of Section 2, sub-section (j) of Chapter 149, Acts of 1953, which reads as follows:

" 'Provided, That the provisions of this Act shall be applicable to all persons who shall have completed twenty years or more of teaching service as defined herein whether or not they have heretofore qualified for same, but no annuity payment shall be made pursuant to this Act for time in retired status prior to July 10, 1953, or final filing of service record, whichever is later.'

"Under this provision of the law, the Indiana State Teachers' Retirement Fund is accepting applications for annuity from teachers who at some previous time