

1953 O. A. G.

collected quarterly, semi-annually or annually. Therefore, in view of the foregoing, my answer to your questions are as follows:

(1) The amount of reserve required in relation to a periodical payment should be determined by the payment as called for by the policy or certificate issued to the policy-holder whether monthly, quarterly, semi-annually or annually as set out by statute.

(2) The Board of Directors or the company's officers cannot by the by-laws limit the periodical payment or assessment to one-twelfth of the annual premium for accumulating or maintaining the statutory reserve required by law on premiums collected in any other manner than monthly.

OFFICIAL OPINION NO. 17

April 6, 1953.

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

Dear Sir:

Your letter of March 30, 1953 has been received and reads as follows:

"An application has come to this office and to the State Board for Vocational Education requesting a vocational transfer for a student from the York Township School, Benton County, not offering vocational agriculture, to the Kentland City Schools, Newton County, offering vocational agriculture. The trustee of the York Township School was willing to transfer this student to the Parish Grove Township School, Benton County, which also maintains an approved department of vocational agriculture.

"Therefore, I would appreciate an official opinion as follows:

OPINION 17

"1. Under the provisions of the Burns' Indiana Statutes 28-3701 and 28-4909, can the township trustee of the transferring school corporation designate or select the approved school to which the transfer is made.

"2. If the trustee has agreed to issue to a pupil a vocational transfer to another school corporation approved to offer the desired curriculum in vocational education, but which corporation is counter to the desires of the parents, and if the application to the school corporation which meets the parents' approval has been disapproved by the trustee or school board or superintendent having jurisdiction over the pupil involved, has the State Board for Vocational Education the authority to override the decision made by the township trustee and the superintendent? If so, can the transfer be made by the State Board for Vocational Education to an approved corporation in a county other than that in which the pupil resides?

"3. Also under the provisions of the Burns' Indiana Statutes 28-3701 and 28-4909, is the State Board for Vocational Education empowered to take any action on requests for vocational transfers except to approve or disapprove as submitted?"

Section 28-3701 *et seq.* Burns' 1948 Repl. above referred to, is Chap. 253 of the Acts of 1921, as amended, and is the general statute prescribing the manner of transfer of school pupils from one school corporation to another. It is the general statute on the question and in my opinion does not repeal or supersede Section 28-4909, Burns' 1948 Repl., same being Section 10, Chap. 24, Acts of 1913, which is a special statute dealing only with the question of Vocational Education and Rehabilitation. The latter statute provides as follows:

"Any resident of any city, town or township in Indiana which does not maintain an approved vocational school or department for industrial, agricultural or domestic science education offering the type of training which he desires may make application for admission to such school or department maintained by another city, town or township or any school of secondary grade

maintaining an approved industrial, agricultural or domestic science school or department. The state board of education, whose decision shall be final, may approve or disapprove such application. In making such decision, the board shall take into consideration the opportunities for free vocational training in the community in which the applicant resides; the financial status of the community; the age, sex, preparation, aptitude and previous record of the applicant, and all other relevant circumstances.

“The school city or town or township in which the person resides who has been admitted as above provided to an approved vocational school or department for industrial, agricultural or domestic science education, maintained by another city, town or township or other school, shall pay such tuition fee as may be fixed by the state board of education; and the state shall reimburse such school city or town or township as provided for in this act. If any school city or town or township neglects or refuses to pay for such tuition, it shall be liable therefor in an action of contract to the school city or town or township or cities and towns and townships or other school maintaining the school which the pupil with the approval of the said board attended.”

In ascertaining the legislative intent as to a statute, the courts may take into consideration other acts in *pari materia*, either passed before or after the act in question.

Sherfey v. City of Brazil (1937), 213 Ind. 493, 497, 498, 13 N. E. (2d) 568.

It is also well recognized that a general statute does not repeal a statute dealing with a particular subject in a particular manner in the absence of some clear indication of the legislature of an intent to effect such repeal.

Peoples T. & S. Bank v. Hennessey (1938), 106 Ind. App. 257, 275, 153 N. E. (2d) 507;

1945 Ind. O. A. G., pp. 262, 264, Official Opinion No. 59, and cases therein cited.

OPINION 18

I am therefore of the opinion that Section 28-3701, Burns' 1948 Repl., does not supersede or control Section 28-4909, Burns' 1948 Repl.

The last referred to statute is clear and unambiguous and therefore not subject to construction.

Section 4502, Sutherland Statutory Construction,
Third Edition;

Citizens T. & S. Bank v. Fletcher American Company
(1934), 207 Ind. 328, 334, 190 N. E. (2d) 868;

1945 Ind. O. A. G., p. 372, Official Opinion No. 92.

Under the clear provisions of Section 28-4909, Burns' 1952 Repl., I am therefore of the opinion your question should be answered as follows:

1. The township trustee of the transferring school corporation cannot designate or select the approved school to which a transfer for vocational education is made.

2. The trustee of the resident school corporation of an applicant for a transfer for vocational education does not pass on such consideration, nor does the county superintendent of schools, nor can they force a substitute choice of schools. The application is made by the parents of the child, and the child, to the State Department of Education who must either approve or disapprove such application for transfer to the particular school designated. It may not substitute the school. It must also fix the tuition fee to be paid to the receiving school from the school corporation where such applicant resides.

OFFICIAL OPINION NO. 18

April 6, 1953.

Hon. John W. Van Ness,
Senator,
603 Franklin Street,
Valparaiso, Indiana.

Dear Senator:

I have your request for an official opinion in which you ask the following three questions: