

OFFICIAL OPINION NO. 16

February 11, 1952.

Honorable Henry F. Schricker,
Governor, State of Indiana,
State House,
Indianapolis, Indiana

Dear Governor Schricker:

I have your request for an Official Opinion which reads as follows:

“I am in receipt of a letter from Mr. Bartel Zandstra, Clerk of the Lake Circuit Court and Chairman of the Lake County Election Board, and addressed to me as Chairman of the State Election Board.

“In his letter he has related that a vacancy occurred in the office of township trustee of Calumet Township in Lake County, caused by the resignation of the then incumbent who was elected Mayor of the City of Gary.

“A successor was duly appointed and a question has arisen as to the duration of the appointee’s term of office, and when an election shall be held for a successor.

“Therefore, we request your official opinion as to when an election shall be held for the office of township trustee in said township.”

Section 14 of Article 2 provides that township elections shall be held at the time of the general election unless otherwise provided by law, and Section 9 of Article 6 provides that vacancies in township offices may be filled as provided by law.

Pursuant to this constitutional authority the legislature has passed numerous statutes concerning the election and appointment to fill vacancies in township offices. Burns’ 65-106 provides that in case of a vacancy in the office of township trustee, the board of county commissioners shall appoint a trustee who shall hold until the successor is elected and qualified. Section 175 of Chapter 208 of the Acts of 1945, same being Burns’ 29-4501, reads as follows:

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“Township trustees, township assessors, justices of the peace, constables, three (3) members of the township advisory board, and such other township officers as may be provided for by law, shall be elected at the general election held on the first Tuesday after the first Monday in November, *in the even-numbered year preceding the expiration of their term of office, and every four (4) years thereafter*, and such election shall be conducted under the provisions of this act governing general elections. The term of office of all township officers shall be four (4) years and such term shall begin on the first day of January succeeding their election.” (Our emphasis.)

This last section seems to be an exercise of the authority given the legislature to determine the time for holding township elections. Due to the statutes existing at the time of the passage of this act, the first election pursuant to it in all townships was held in 1946. See 1946 O.A.G. 112 for a discussion of the statutes existing at the time of the passage of this section. Since Burns' 29-4501 provides for the holding of an election only every four years, even though an appointee holds only until a successor is elected and qualified, the first appropriate election for the election of a successor will be in 1954.

For an analogous situation concerning cities, see 1948 O.A.G. 80.

Therefore, it is my opinion that a person appointed to fill a vacancy in the office of township trustee will hold until the time of the next township election, in this case, 1954.