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1. Therefore, in answer to your first question, I am of the opinion since this teacher was not notified on or before May 1st, 1951, that his contract as superintendent would not be renewed, he is entitled to serve another year under such contract.

2. In answer to your second question I am of the opinion that under the provisions of said statute such superintendent would be entitled to the salary specified in his contract which might be increased in the event all teachers were given a blanket percentage increase in salary for the coming school year.

OFFICIAL OPINION NO. 53

June 26, 1951.

Mr. Ross Teckemeyer,
Executive Secretary,
Public Employes' Retirement Fund,
707 Board of Trade Building,
Indianapolis, Indiana.

Dear Sir:

This is in answer to your request for an opinion in regard to the employment retirement fund. Your request is in the following language:

"Chapter 313 of the Acts of 1951 provides that municipalities or political sub-divisions may begin participation January 1st of any year. The Federal Social Security Director (Regional) has insisted that we inform the eligible political sub-divisions that coverage may be retroactive to January 1, 1951.

"Since this Act was approved and became effective April 1, 1951 and since Section 7 also sets out steps to be taken prior to the election by the local governing body, we have been rather hesitant about giving out the above information.

"Therefore, I am asking that if in your opinion may this law be retro-active to January 1, 1951? An imme-
diate reply will assist greatly in the administration of
this Act.”

A study made of the recent act of the General Assembly
does not in my judgment show any intention on the part of
the Legislature to make this Act retro-active. Retro-active
statutes may be enacted by the General Assembly when the
provisions thereof do not impinge or interefere with vested
rights.

Board of School Commissioners of Indianapolis v.
Center Township (1896), 143 Ind. 391, 42 N. E.
808;
Pittsburgh, Cincinnati, Chicago and St. Louis Rail-
way Company v. Lighteiser (1906), 168 Ind.
138, 78 N. E. 1033.

In the case last cited, the Supreme Court of Indiana said
that retro-active laws are similar but do not come in the
classification of *ex post facto* laws since *ex post facto* laws
refer to criminal matters rather than to civil; and this case
indicates that retro-active statutes may be enacted when
vested rights are not affected. The only provision of the Act
that might be contended as making the act retro-active is
that found in Section 7 where it states: “the ordinance or
resolution shall provide that coverage shall begin on the first
day of January of any year.” We think this language is not
sufficiently strong to warrant the act to be retro-active in its
application. If the language “first day of January of any
year” is to receive the construction contended for it might
also refer to the first day of January, 1949 or 1950. Other
language of the act seemed to indicate very clearly that the
act is to be construed as applicable in futurity rather than
retro-active because paragraph 6 of Section 5 requires each
political subdivision as to which a plan has been approved
to pay into the contingent fund with respect to wages in
order to cover the fund of each employee. Taking the lan-
guage of the Act as a whole and construing its provisions
in that manner, we are of the opinion that the Act is not
retro-active to January 1, 1951 especially is this so since the
Act would not go into effect for a period of three months
after that date.

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