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each, and all disbursements therefrom shall be submitted annually to the governor of the state by the said board.” (Our emphasis.)

This section give unequivocal authority to receive donations from private persons as long as they are unconditional or the condition is, in the judgment of the board, proper and consistent with the provisions of the Industrial Aid Act.

Your specifically ask whether the board of trustees will have full authority in the disbursement of these funds to defray the expenses of vocational rehabilitation for the blind. The section quoted above, and particularly the second underlined passage, requires that such donations be used to defray the expense in special cases. Thus, the board would have discretion in the use of such funds, but the funds would have to be used in some particular case or cases of a special nature and could not be used for such expenses as were necessary in the general administration of the act.

OFFICIAL OPINION NO. 108
December 26, 1951.

Mr. Otto K. Jensen,
State Examiner,
State Board of Accounts,
Indianapolis 4, Indiana.

Dear Sir:

I have your request for an Official Opinion in which you make the following statement of facts:

"Population of the city according to the official United States Census of 1940 was 33,434. The population according to the official United States Census of 1950 is 35,646. The city operates a municipal water utility, but does not operate a municipal light utility. At the present time, the city has a Clerk-Treasurer and a City Controller. The City Controller handles the collection of Barrett Law assessments. With a view toward becoming a second class city, no candidates were nominated for the office of Clerk-Treasurer"
in the 1951 primary election. Elkhart is not the county seat of Elkhart County."

You proceed to ask a number of questions. The first question is:

"Does the Treasurer of Elkhart County become *ex-officio* Treasurer of the City of Elkhart?"

Section 5 of Chapter 233 of the Acts of 1933 as last amended by Section 1 of Chapter 99 of the Acts of 1943, same being Burns 48-1215 and provides in part as follows:

"* * * The county treasurer shall be *ex officio* treasurer of all cities of the second class and shall perform all duties now provided by law for the office of such city treasurer."

This provision makes it clear that the county treasurer becomes *ex officio* treasurer of any city of the second class.

Section 1 of Chapter 233 of the Acts of 1933 as subsequently amended, same being Burns 48-1201, provides that all cities having a population of from 35,000 to 250,000 are cities of the second class. It has been held repeatedly that changes in the classification of cities are automatic and when the results of the census are announced, the changes in classification are effective as of the effective date of the census. See 1951 O. A. G. No. 12. Thus, Elkhart became a city of the second class on April 1, 1950. Therefore, my answer to your first question is, that the treasurer of Elkhart County is the *ex officio* treasurer of the city of Elkhart.

Your second question reads as follows:

"If the answer to question numbered one (1) is in the affirmative, when does he assume his position as such *ex-officio* City Treasurer?"

This question is covered by the discussion contained under question 1. The Treasurer of Elkhart County became Treasurer *ex-officio* Treasurer of the City of Elkhart, by operation of law, on April 1, 1950.

Your question No. 4 is as follows:

"If the answer to question numbered one (1) is in the affirmative, will the county treasurer as *ex-officio*
Treasurer of the City handle collections of Barrett Law assessments, or will the City Controller continue to perform this service?"

Section 1 of Chapter 99 of the Acts of 1931, as amended by Section 1 of Chapter 48 of the Acts of 1941, same being Burns 48-4401, provides in part as follows:

"* * * the duties of cities and towns relative to the collection of enforcement of said assessments and the payment of said bonds, shall be performed by the following named officers of such cities and towns respectively: In cities having a city controller and where the county treasurer acts as the city treasurer, such duties shall be performed by the city controller; except that in cities of the first class and cities of the second class having a population not less than one hundred and one thousand (101,000) and not more than one hundred and four (104,000) thousand, according to the last United States census, where the county treasurer acts as the city treasurer, such duties shall be performed by the county treasurer; in cities having no city treasurer other than the county treasurer, such duties shall be performed by the county treasurer; in cities having a city treasurer, other than the county treasurer, such duties shall be performed by such city treasurer; in towns, such duties shall be performed by the town treasurer."

Thus, under the facts stated by you, it is necessary to determine whether or not the city of Elkhart has a city controller in order to determine who is the proper officer to collect Barrett bond assessments.

Burns 48-1215, previously cited, provides in part as follows:

"In such cities of second class the mayor shall appoint a city controller, a city civil engineer, a board of public works, a board of public safety, a city attorney, a chief of fire department, a chief of police, and other officers, employees, boards and commissions, in accordance with the provisions of laws now in effect and as hereinafter provided.

* * *
"Provided, this section shall not apply to cities of second class, owning and operating a municipal waterworks and electric light plant. * * *"

This clearly provides that cities of the second class shall have city controllers with certain exceptions which do not apply to the city of Elkhart. Therefore, pursuant to the provisions of Burns 48-4401, the city controller is charged with the collection of Barrett Bond Assessments, and will continue to perform that duty.

Your question No. 3 reads as follows:

"If the answer to question numbered one (1) is in the affirmative, what compensation will the County Treasurer be entitled to receive for his services as ex-officio City Treasurer of Elkhart?"

Section 1 of Chapter 112 of the Acts of 1935, same being Burns 48-1215A provides for compensation to a county treasurer who acts as ex officio city treasurer for the performance of duties in relation to Barrett bonds. However, that section provides in part:

"* * * Nothing contained in this section shall be construed to apply to any city of the second class wherein the city controller collects the special assessments of such city, commonly referred to as the Barrett law assessments."

Therefore, it is not applicable to the city of Elkhart.

I find no other statute which provides for compensation to a county treasurer serving ex officio as city treasurer of the city of the second class not a county seat, which has the characteristics and qualifications of the city of Elkhart. It is a well established principle that public officers are entitled to only such compensation as is provided by statute. Therefore, it is my opinion that the county treasurer is entitled to no compensation for his services as ex officio treasurer of the city of Elkhart.

Your question No. 5 is made inapplicable due to the answers to question No. 4.

For discussion of similar problems, see 1946 O. A. G. 410 and 1939 O. A. G. 301.