

## OPINION 16

no official status as a Chief Deputy, in other words the manner of appointment and the title given would determine the salary which such officer would be entitled to. This answers your questions numbered one and two.

As to your question number three, it is clear said statute would authorize the assessor to appoint a Real Estate Deputy and fix his salary at \$6.00 per day without any particular qualifications. On the other hand, if he attempts to qualify for the larger salary to be fixed by the county council then it would be incumbent upon the Deputy Assessor and the County Assessor to furnish such evidence of qualifications as would in the opinion of the county council entitle him to the salary to be fixed by the county council within the minimum and maximum provided for such office. This would be a matter within the discretion of the county council which, of course, like any other discretionary authority would not be subject to reversal except upon a clear abuse of such discretion.

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### OFFICIAL OPINION NO. 16

April 6, 1949.

Mr. Ross Teckemeyer,  
Executive Secretary,  
Public Employes' Retirement Fund,  
707 Board of Trade Building,  
Indianapolis 4, Indiana.

Dear Sir:

Your letter of March 10, 1949, has been received in which you request an official opinion on the following question:

"Chapter 49 of the Acts of 1929 authorizes the trustees of Indiana University, Purdue University, Indiana State Normal School, and Indiana State Teachers College, to issue bonds for the purpose of building field houses, gymnasiums, student unions, and halls of music. Chapter 137 of the Acts of 1927 authorizes the board of trustees of the respective state schools to issue bonds for the purpose of building dormitories.

“In your opinion do the bonds issued by the trustees of the state universities and teachers colleges come within the classification of securities authorized in Chapter 340, Acts of 1945, and if so may the trustees of the Public Employes’ Retirement Fund invest our excess cash working balance in bonds of the universities?”

Section 18 of Chapter 340 of the Acts of 1945 is Section 60-1618 Burns 1947 Supplement and in part reads as follows:

“The board shall, from time to time, determine the current requirements for benefit payments and administrative expenses, which shall be maintained as a cash working balance except that such cash working balance shall not exceed at any time an amount necessary to meet the current obligations of the fund for a period of ninety (90) days. Any amounts in excess of such cash working balance shall be invested by the board of trustees in the following classes of securities: (a) Bonds, notes, certificates and other valid obligations of the United States; (b) Bonds, notes, debentures and other securities issued by any federal instrumentality and fully guaranteed by the United States; (c) Bonds, notes, certificates and other valid obligations of the state of Indiana, or of any county, city, township, town or other political sub-division of the state of Indiana; \* \* \*.”

Chapter 49 of the Acts of 1929 is Section 28-5716 *et seq.* Burns 1948 Replacement which authorizes the trustees of the State universities and State normal schools to issue bonds for the construction of field houses and gymnasiums. Chapter 137 of the Acts of 1927, referred to in your letter, is Section 28-5722 Burns 1948 Replacement which authorizes the trustees of such schools to issue bonds for the purpose of erecting dormitories. Each of such statutes specifically provides that such bonds when so issued shall not be the obligations of the State of Indiana but shall only be liens on the particular real estate against which they were issued and shall be paid for, among other things, from the net receipts from the operation of such enterprise.

It is a well recognized rule of statutory construction that

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statutes are to be construed in their plain, ordinary and usual meaning unless a contrary purpose clearly appears.

Section 1-201 Burns 1933;

Garvin v. Chadwick Realty Co. (1937), 212 Ind. 499, 506.

It is therefore necessary to determine whether such State schools are "political sub-divisions" of the State of Indiana and to determine whether or not such bonds issued by such schools are "general obligation bonds" of the State of Indiana.

It is generally recognized that a "political sub-division" of a State is a sub-division thereof to which has been delegated certain functions of local government.

Standard Oil Company v. National Surety Co. (1926), 143 Miss. 841, 107 So. 559, 560;

Commander v. Board of Commissioners of Buras Levee District (1942), 202 La. 525, 11 So. (2) 605, 607, 608;

Words and Phrases, Permanent Edition, Vol. 32, page 817.

It can clearly be seen that from the foregoing such State universities and normal schools are not "political sub-division" of the State of Indiana as they are not concerned with local government, are not created as definite local political sub-divisions, and have no tax raising powers. In fact, they are more in the nature of a State agency or instrumentality.

In determining what are general obligation bonds it has been held that drainage bonds issued by a county under statutes providing that each bond show that it was paid only by a tax assessed, levied and collected on land within the drainage district were not "general obligation bonds."

Hartz v. Truckenmiller (1940), 228 Iowa 819, 293 N. W. 568, 571.

It has further been held that "general obligation bonds" of a township are bonds payable from an unlimited general *ad valorem* tax on all taxable property.

DeLoach v. Scheper (1938), 188 S. C. 21, 198 N. E. 409, 414.

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It is therefore apparent that such bonds of such State universities and schools could not be construed to be general obligation bonds of the State of Indiana or of any political sub-division thereof.

I am therefore of the opinion that under the above statute the trustees of the Public Employes' Retirement Fund are not authorized by Chapter 340, Acts of 1945, to invest their surplus money in the bonds of said State universities and schools issued under the foregoing statutes.

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OFFICIAL OPINION NO. 17

April 7, 1949.

Hon. Arthur M. Thurston,  
Superintendent, Indiana State Police,  
Stout Field,  
Indianapolis 21, Indiana.

Dear Sir:

I have your letter of March 18 in which you request an opinion which will analyze and construe the provisions of Senate Bill No. 138, Chap. 269 as passed by the last Legislature as they apply to the Indiana State Police Department in its effort to enforce laws relative to maximum truck weights. You state that you are interested in the extent to which former law *in re.* truck weights has been changed and/or superseded by Senate Bill No. 138 and in the application of the penalty provisions as provided in Section 3 of said bill, more specifically as follows:

"1. Does Sec. 3 of said bill allow a tolerance of 1,000 pounds when excess load is 2,000 pounds or less, and if so, does the general penalty in Sec. 4 apply to the first 1,000 pounds of excess load?

"2. If a 1,000 pound tolerance is allowed under one (1) above, does the same tolerance apply to trucks which are more than 2,000 pounds overweight, under the provisions of Sec. 3?

"3. Due to the fact a Justice of the Peace and