OFFICIAL OPINION NO. 39

May 10, 1949.

Hon. Otto K. Jenson,
State Examiner,
State Board of Accounts,
State House, Room 304,
Indianapolis, Indiana.

Dear Sir:

Your request under date of April 19, 1949, for an official opinion is as follows:

"House Enrolled Act 89, Ch. 33, Acts 1949, tends to correct the infirmities of Sec. 3, Ch. 372, Acts 1947, which was held to be invalid by the attorney general. Ch. 33 amends Sec. 15, Ch. 233, Acts 1933, as amended by Sec. 1, Ch. 304, Acts 1943.

"The Act provides for fixing salaries of officers in third class cities of the common council and became effective February 28, 1949.

"Sec. 21, Ch. 233, Acts 1933, as amended, (Burns Supp. 48-1233) provides the time when the common council shall fix salaries by proper ordinance and 'when so fixed shall not be changed by the common council during their respective terms of office.'

"We respectfully request an official opinion to the following questions:

"(1) Will salaries fixed by the common council in accordance with the provisions of the invalid Ch. 372, Acts 1947, continue in effect on and after February 28, 1949?

"(2) If your answer to question 1 is in the negative, when can the common council fix such salaries as provided by Ch. 33, Acts 1949?

"(3) If it is necessary for the common council to reenact an ordinance fixing salaries pursuant to the provisions of Ch. 33, Acts 1949, can such officers be paid and receive the salaries so fixed for the remainder of
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their respective terms, or will the effective date of the
payment of such salaries be at the beginning of a new
term in January, 1952?"

You are referred to Official Opinion No. 22 1949, where the
same or similar questions are involved and answered.

The answer to your question number one (1) is "yes".

The salaries fixed by ordinances pursuant to Chapter 372,
Acts of 1947 are lawfully payable throughout the year 1951.

OFFICIAL OPINION NO. 40

May 9, 1949.

Mr. Otto K. Jensen,
State Examiner,
State Board of Accounts,
Room 304, State House,
Indianapolis, Indiana.

Dear Sir:

Your request under date of April 19, 1949 for an official
opinion, reads as follows:

"House Enrolled Act 75, Chapter 241, Acts 1949 fixes
the annual base salary of each county surveyor in this
state and provides, in sub-section b, section 1, that
"if the county surveyor is licensed under the laws of
the State of Indiana to practice civil engineering, the
annual salary of the county surveyor shall be * * *.'
The act fixes the amount by counties and in some
instances is a minor increase. The act further contains
a permissive provision for the county council to increase
the annual salary in an amount not to exceed $1500.
The act is effective April 1, 1949.

"We respectfully request an official opinion to the
following question:

"Are county surveyors who are licensed to practice
civil engineering entitled to an increase in salary on