forfeiture that may be made by complaint filed in the circuit or superior court of any county in which the public utility has its principal place of business and that the "action so commenced shall be prosecuted by the general counsel." Since the general counsel of the Public Service Commission of Indiana is the Attorney General of Indiana it would be his duty to prosecute any action. The effect of the section just cited warrants the Public Service Commission of Indiana to file an information in quo warranto if it finds that a utility is violating the utility law and declines to end such violations. This is a special proceedings and should always be carefully and prudently invoked especially against a public utility because of injurious results that might follow such an action if such proceedings are erroneously brought.

In conclusion it may be stated that all of the terms and considerations of the lease agreement as obligations of the lessee embrace virtually every obligation of ownership. This in itself is not especially indicative of fraud or bad faith but is subject to the consideration of the Commission and its opinion is exactly discretionary as to whether or not such lease is feasible from an economic viewpoint in that it may cause expenses which are against public policy generally. The Commission must decide this question as a matter of fact and public policy rather than one of law.

CHJ:vb

OFFICIAL OPINION NO. 56
June 23, 1949.

Honorable Bernard E. Doyle, Chairman,
Indiana Alcoholic Beverage Commission,
201 Illinois Building,
Indianapolis, Indiana.

Dear Sir:

Your letter of May 26, 1949 received requesting an Official Opinion on the following question:

"Is the department (Indiana Alcoholic Beverage Commission) authorized to employ and with the ap-
proval of the Budget Committee, to fix the compensa-
tion of such employees as may be necessary to admin-
ister and enforce the provision of House Enrolled Act
No. 203, Chap. 51 of the Acts of 1949, and to pay all
salaries, cost and expenses incurred in its enforce-
ment?"

Accompanying your request was certain detailed informa-
tion showing that in connection with the operation of Chapter
222 of the Acts of 1947, known as the Indiana Cigarette Tax
Law, on June 10, 1947 the Indiana Alcoholic Beverage Com-
mission entered into a tentative agreement as follows:

"Inasmuch as a large portion of the Cigarette Tax
Administration and Enforcement would be handled by
the regular employees of the Alcoholic Beverage En-
forcement Fund for which direct payment could not be
made, it was agreed, with the approval of the Com-
mission, Auditor of State, Director of the Budget, and
the State Board of Accounts, that the Cigarette Tax
Account in addition to all payments that could be made
direct, would be charged with 10% of certain disburse-
ments made from the Alcoholic Beverage Administra-
tion and Enforcement Fund."

Your communication further shows that said tentative
agreement was made for the specific purpose of administra-
tion and enforcement of Chapter 222 of the Acts of 1947 and
was included in the Cigarette Tax Budget submitted to the
Budget Committee in September, 1948, and approved long
before your Commission had knowledge of the introduction
and passage by the General Assembly of 1949 of said Chapter

Your communication further shows that the 1949 Act
places the responsibility of enforcement of said Act on your
Commission and will materially increase the scope of investi-
gations and enforcement and entail additional expenses to the
Administration and Enforcement Fund of your Commission,
it being the policy to use to a great extent the personnel of
your Commission in the enforcement of each of the several
acts coming under its supervision.

You therefore, further desire to know if the original tenta-
tive agreement of 10% reimbursement can be increased, effective July 1, 1949, to 15% to partially cover the costs of enforcement of both of said cigarette statutes.

Chapter 222 of the Acts of 1947 is Section 64-3001, et seq. Burns’ 1947 Supplement. Section 1 of said Act reads as follows:

“It is the intent and purpose of this act to levy a tax on all cigarettes sold, used, consumed, handled or distributed within this state, and to collect the tax from the person who first sells, uses, consumes, handles or distributes the cigarettes. It is further the intent and purpose of this act, that whenever any cigarettes are given for advertising or any purpose whatsoever, they shall be taxed in the same manner as if they were sold, used, consumed, handled, or distributed in this state.”

Section 5 of said Act, same being 64-3005, Burns’ 1947 Supplement provides as follows:

“Unless the content hereof requires otherwise, ‘department’ shall mean the Indiana alcoholic beverage commission, its duly authorized assistants and employees, and any other board, commission, agency or other entity of the state of Indiana which may be designated by the governor to administer and enforce the provisions of this act, and the tax imposed hereby, and the governor is hereby vested with power and authority to designate and to transfer to another department, board, commission, agency or other entity of the state of Indiana the administration and enforcement of the provisions of this act and the tax imposed hereby.”

Section 14 of said Act, same being Section 64-3015 Burns’ 1947 Supplement provides in part as follows:

“The department shall be the official agent of the state for the administration and enforcement of this act. The department is hereby authorized to promulgate in the manner provided by law all rules and regulations necessary to administer and enforce the provisions of this act. The department is further author-
OPINION 56

ized to employ and with the approval of the budget committee, to fix the compensation of such employees as may be necessary to administer and enforce this act and to pay all salaries, costs and expenses incurred in its enforcement. A sufficient sum to pay said salaries and expenses is hereby appropriated to the department out of the moneys received by virtue of this act.

"* * *"

Chapter 51 of the Acts of 1949, same being the Act relating to fair trade practices in the sale of cigarettes, after providing that the administration of said Act shall be the duty of the Indiana Alcoholic Beverage Commission, thereafter provides under Section 13 as follows:

"The Department may adopt rules and regulations for the enforcement of this Act and the Department is empowered to and may undertake a 'cost survey,' as provided for in Section 11 of this Act. The Department may, in accordance with the provisions of Chapter 365 of the Acts of the 85th Session of the General Assembly of the State of Indiana, the same being an Act entitled 'An Act concerning the proceedings, orders and determinations of State officers and agencies and judicial review thereof,' approved March 14, 1947 suspend or revoke any registration issued by it to a distributor under the provisions of the Act to which reference is made in the following paragraph of this section for failure of any such registrant to comply with the provisions of this Act or any rule or regulation adopted hereunder.

"All the powers vested in the Department by the provisions of Chapter 222 of the Acts of the 85th Session of the General Assembly of the State of Indiana, the same being 'An Act to Provide for the Raising of Public Revenue by imposing a Tax upon Cigarettes, to Provide for the Enforcement and Administration of Said Tax, to Define Certain Unlawful Acts Relating to Said Tax to Provide Penalties for the Violation of the Provisions of this Act, and declaring an Emergency,' approved March 13, 1947, shall be available to the De-
partment in the enforcement of this Act.” (Our emphasis.)

From the foregoing it is clear that the Legislature has selected the Indiana Alcoholic Beverage Commission for the purpose of administering each of such cigarette statutes. It is reasonable to assume that in making such selection the Legislature was cognizant of the fact that the personnel setup of your commission was adaptable to the administration and enforcement of the cigarette statutes. At least it is reasonable to assume that since as early as June 1947 a tentative agreement had been worked out and approved by the financial departments of the State charging the cigarette tax fund with 10% of the cost of certain of the personnel of your commission rather than to employ persons exclusively for the enforcement of the 1947 cigarette law. This agreement was incorporated in the Budget of 1948 and was a matter of official record when the new cigarette law was introduced in the 1949 General Assembly.

Courts will look to the general purpose and scope of a statute to determine the legislative intent.

City of Indianapolis v. Evans (1940), 216 Ind. 555, 567;

The Legislature is presumed to be acquainted with existing law and in Legislation on any subject to have in view its provisions together with the construction placed thereon by the Courts.

Stith Petroleum Company v. Department of Audit and Control (1936), 211 Ind. 400, 405;
Town of Brownsburg v. Trucksess (1933), 98 Ind. App. 322, 329.

The interpretation of legislation by administrative officers, while not controlling is persuasive and entitled to consideration.

State, ex rel. Middleton v. Scott Circuit Court (1938), 214 Ind. 643, 649;
Department of Insurance, etc., v. Merchants Fire Insurance Co. (1944), 222 Ind. 611, 615.
Applying said authorities to the foregoing, I am of the opinion the Legislature would be considered as having knowledge of the manner in which the expenses of the enforcement of the 1947 cigarette tax law was being handled by your commission at the time it enacted Chapter 51 of the Acts of 1949. In fact such intent is reasonably clear from the above quoted portion of Section 13 of said Act.

I am therefore of the opinion the Indiana Alcoholic Beverage Commission is authorized to employ and with the approval of the Governor and the Budget Committee to fix, the compensation of such employees as may be necessary to administer and enforce the provisions of Chapter 51 of the Acts of 1949, and to pay all salaries, costs and expenses incurred in this enforcement. This would include the right to increase or change the charge of 10% of certain disbursements from your Alcoholic Beverage Administration and Enforcement Fund to such necessary per cent, governed by practical requirement and as may be agreed upon and approved by the Governor and the Budget Committee.

TLW:mfl

OFFICIAL OPINION NO. 57

June 23, 1949.

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

Dear Sir:

Your request for an official opinion reads as follows:

"Resolutions have been filed with the officials of Columbus Township, Bartholomew County and the school city of Columbus favoring a consolidation of these units under the provisions of Chapter 268 of the Acts of 1949 and election has been tentatively fixed for July 12th.

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