1949 O. A. G.

ment fund is governed solely by the provision of the law under which she claims membership therein. 1938 Ind. O.A.G. 399; 1940 Ind. O.A.G. 87; 1945 Ind. O.A.G. 521, 525, official opinion No. 119; 1948 Ind. O.A.G. 253, 255, official opinion No. 42.

I am, therefore, of the opinion the schedule of the per cent of contribution which may be withdrawn by a member of the teachers' retirement fund as set forth in Section 1, (e), Chapter 130, Acts of 1949, applies only to members becoming members under or electing to come under the 1949 retirement act.

TLW:man

OFFICIAL OPINION NO. 113

November 18, 1949.

Honorable Albert Ellis
Superintendent Indiana State Farm
Greencastle, Indiana

Dear Sir:

I have your request for an official opinion which is as follows:

“At the last meeting of our Board of Trustees I was instructed to request an opinion from you on the paying of $10.00 reward for the re-capture of Inmates who escape from this Institution.

“For the past several years it has been the policy of this Institution to pay this reward to anyone who captures an escapee, including City Police and County Sheriffs. The State Board of Accounts has questioned the legality of this practice, particularly in cases where payments are made to City and County Law Enforcement Officers.

“The Board of Trustees and I feel, however, that we should continue to pay this reward as it provides incentive for such officers to put forth added effort to re-capture fugitives from the State Farm. In many cases they probably would not go out of their way to apprehend these escapees.”
I find no specific statutory authority for the Board of Trustees of the Indiana State Farm to offer a reward. In an opinion issued by the Attorney General on April 30, 1943 (1943 O.A.G. p. 221) it was held that the Superintendent of the Indiana Boy's School could not pay a reward to sheriffs or police officers for returning runaway boys. The reasoning of that opinion would apply equally to the Indiana State Farm.

Section 1, Chapter 122 of the Acts of 1927 same being Burns' 10-1808 deals with escapees from the Indiana State Farm and provides in part:

"* * * Such escaped person shall be pursued and arrested by the sheriff of said county, in which pursuit and arrest said sheriff shall be assisted by the officers of said farm and all sheriffs and police officers of the state."

This statute makes it the duty of police officers and sheriffs to apprehend persons who have escaped from the Indiana State Farm and return them. It is clear that such officers are not entitled to additional compensation for performance of a duty enjoined on them by statute.

In 46 American Jurisprudence, page 109, Paragraph 8 under the title Rewards, it provides in part as follows:

"In the absence of contrary constitutional provisions, the legislature of a state may offer rewards to those who shall initiate or carry on prosecutions for a crime; or it may authorize the offering of such rewards. The authorities very generally agree, however, that municipalities and other subdivisions of the state have no power to offer rewards for the apprehension of offenders against the criminal laws of the state, unless a statute or charter provision confers such power, as is sometimes done. * * *"

An early case in Indiana, Board of Commissioners of Grant County v. Bradford (1880), 72 Ind. 455, seems to be in accord with that statement.

It is therefore my opinion that the Indiana State Farm has no authority to offer or pay any reward for the return of escaped prisoners.

NJB : mfl

430