your department pass on all building sites, so that this is a matter which you should take into consideration in determining whether the 35 acre tract should be purchased as and for school building sites.

CHJ:aa

OFFICIAL OPINION NO. 15

April 5, 1949.

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

Dear Sir:

The letter from your office dated February 28, 1949, has been received requesting an official opinion on the following questions:

"Section 64-1005C Burns 1943 Replacement which is Chapter 187, page 577, Acts of 1945 provides that in townships having a valuation of more than $30,000,000 and less than $90,000,000 as shown by the last preceding year's abstract, the township assessor is authorized to employ one chief deputy who shall receive compensation at the rate of eight dollars ($8.00) per day; such number of real estate deputies as may be necessary who shall receive compensation to be fixed by the county council at not less than seven dollars ($7.00) per day nor more than ten dollars ($10.00) per day. In all townships having a valuation of more than $90,000,000 and less than $200,000,000, as shown by the last preceding year's abstract, the township assessor is authorized to employ one chief deputy who shall receive compensation a salary of $2700 per annum; such number of real estate deputies as may be necessary, who shall receive compensation to be fixed by the county council at not less than eight dollars ($8.00) per day nor more than ten dollars ($10.00) per day and providing further that no real estate deputy shall be paid more
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than six dollars ($6.00) per day unless especially qualified through training and/or experience in the making of appraisals of real estate and/or manufacturing plants.

"I respectfully request your official opinion upon the following questions:

"1. Can a chief deputy assessor in a township of either the above classifications receive compensation in excess of the amount provided for chief deputy assessor?

"2. Can a real estate deputy assessor perform the duties and hold the title of chief deputy assessor and receive compensation in excess of the amount designated as compensation of chief deputy assessor?

"3. If and in the event a claim 'of one termed as a real estate deputy' is presented to the county auditor for compensation in excess of six dollars ($6.00) per day, what proof should accompany the claim to show the qualification of the claimant?"

The law is well established in Indiana that an officer is entitled only to the fees and compensation allowed by statute, and before an allowance is made to him he must point out the particular statute authorizing it.

Applegate v. State *ex rel.* Pettijohn (1933), 205 Ind. 122 to 124;
City of East Chicago v. Seuberli (1941), 108 Ind. App. 581, 587;
Board of Commissioners, Jay County v. Templer (1870), 34 Ind. 322, 325.

The statute referred to in your question fixes a salary for Chief Deputy Assessor. If a Chief Deputy Assessor is appointed he is entitled only to the salary of Chief Deputy Assessor. If a Deputy is appointed as a Real Estate Deputy he is entitled to receive the compensation set out in the statute. I find no authority for the same man holding both titles and being appointed to both positions. On the other hand, he could be appointed a Real Estate Deputy and incidentally perform the duties of Chief Deputy but he would have
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.

TLW: vb

OFFICIAL OPINION NO. 16

April 6, 1949.

Mr. Ross Teckemeyer,
Executive Secretary,
Public Employees' 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.