

requiring publication of the zoning ordinances, although it contains provision for notice and hearing prior to the adoption of the ordinance.

Section 28 of Chapter 174 of the Acts of 1947, Section 53-728, Burns' 1947 Supplement, authorizes the Plan Commission to:

"7. Prepare, publish and distribute reports, ordinances and other material relating to the activities authorized under this act."

This statute vests the discretion in the Plan Commission to determine whether the ordinance should be published, and if so, the medium of publication. Since the publication would be by the Plan Commission, the expense would be charged against their appropriations.

I am, therefore, of the opinion (1) that publication of a of a *county* zoning ordinance is not required, but that the county Plan Commission may in its discretion (assuming a proper appropriation therefor) publish the same; (2) such publication would be published in such media and with such frequency as determined by the Plan Commission, and would not be governed by the laws concerning legal publications; and (3) the expense of publication must be paid from an appropriation duly made to the Plan Commission for that purpose.

OFFICIAL OPINION NO. 73

December 21, 1948.

Mr. Forrest V. Carmichael,
Executive Secretary,
Indiana State Teachers Retirement Fund,
Room 336, State House,
Indianapolis, Indiana.

Dear Mr. Carmichael:

You have requested an opinion relative to the status of a teacher who was formerly a member of the Teachers' Retirement Fund with sixteen years of service credit, who, upon his separation from the public schools, made a withdrawal of

the full amount of his contributions. You state that the teacher is now employed as a member of the staff of Butler University and is also a member of the Indiana State Board of Education, and as such board member has asked for service credit in the Indiana State Teachers' Retirement Fund.

Your question is as follows: Is a member of the State Board of Education, because of such services as a member of such board, eligible to membership in the Indiana State Teachers' Retirement Fund?

Section 2 of Chapter 353 of the Acts of 1947, the same being Section 28-4511, Burns' Indiana Statutes 1948 Replacement Volume, sets out who may become members and beneficiaries of the Teachers' Retirement Fund. Said section provides in part as follows:

“* * * And employees in the office of the State superintendent of public instruction and the office of the State Teachers' Retirement Fund who were qualified under this act previous to their election or appointment.”

A State Board of Education was created by Chapter 330 of the Acts of 1947, same being Sections 28-405 to 28-409, Burns' Indiana Statutes 1948 Replacement Volume. Said act provides for the appointment of eighteen (18) members to said State Board of Education by the Governor and the board is divided into three (3) commissions and the state superintendent of public instruction is an ex-officio member of each of the three commissions. The State Board of Education is an autonomous body and each commission thereof governs itself and the compensation of its members and the necessary expenses are approved by each commission acting as an official body.

It is therefore my opinion that the members of the State Board of Education are not employees of the office of the State Superintendent of Public Instruction, and as such, board members are not eligible to receive service credit in the Indiana State Teachers' Retirement Fund.