

OFFICIAL OPINION NO. 44

August 11, 1947.

Hon. C. E. Ruston,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of July 30, 1947 has been received requesting an official opinion as to the following question:

“Are members of the police forces of cities of the state of Indiana prohibited under Section 1 of Chapter 177 of the Acts of 1947 from working in excess of six days of eight hours each in any one week, or not more than an average of 48 hours per week in any one calendar year? Or may they voluntarily agree to work longer hours and by so doing not violate the provisions of this act?”

Section 1, Chapter 177, Acts of 1947 reads as follows:

“*No member* of the police department or police force of any city in the State of Indiana having a regularly organized and paid police department or police force, *shall be required*, except in case of public emergency as determined by the mayor, to work in excess of six days of eight hours each in any one week, or not more than an average of forty-eight hours per week in any one calendar year: Provided, however, That this act shall not apply to the chief of police, chief of detectives, superintendent of the police department or matrons of any such departments.”
(Our emphasis).

Section 3 of said Act makes its provisions effective on and after January 1, 1948.

In my opinion, the language of the foregoing Act is not subject to construction as it clearly states no members of such police force “shall be required” to work in excess of the

number of hours stated in said section of the statute, except in cases of public emergency.

United States v. San Francisco Bridge Co.
(1898), 88 Fed. 891, 893.

Since the statute does not prohibit a police officer working in excess of the number of hours prescribed in the foregoing Act, I am of the opinion such members of said police force are not prohibited by said statute from voluntarily working in excess of the number of hours in the day, week or year, therein prescribed, and that they may voluntarily agree to work longer hours without violating the provisions of said Act.

In your letter you are concerned with whether the title of said Act would affect the provisions of the body of said Act to the extent of making its provisions mandatory on the police officers. The title of said Act is as follows:

“AN ACT to regulate the hours of duty of members of the police departments or police forces in cities having a regularly organized and paid police force and repealing all laws in conflict herewith.”

From the title of said Act, it is clear that the legislature has thereby only indicated they were enacting an act *to regulate* the hours of duty of such police officers. The body of the Act is consistent with its title for it does “regulate” the hours of employment of such police officers, but makes such regulation discretionary as far as the police officer is concerned. Since the purpose of the title of the Act is merely to indicate the subject matter of the legislature being enacted, and since it is consistent with the provisions of the body of said Act, I am of the opinion there is no conflict between the title of the body of said Act.

State *ex rel.* Taylor v. Greene Circuit Court
et al. (1945), 223 Ind. 562, 565 to 568.

On page 566 of the opinion in that case the rule is approved that: “the title is of the nature of a label, its purpose being to give notice of the subject of the act. * * *”

Therefore, I do not believe the title of Chapter 177 of the Acts of 1947 in any way controls the discretionary authority given a police officer to accept or reject the maximum number of hours he is permitted to work in any day, week or year.

OFFICIAL OPINION NO. 45

August 14, 1947.

Mr. Ben H. Watt, Superintendent,
Department of Education,
227 State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of July 22, 1947 received requesting an official opinion on the plan outlined in an enclosed letter from the County Superintendent of Schools, Vevay, Indiana, which reads as follows:

“Under the 1947 Acts of the Indiana General Assembly, Chapter 273, the Non-Profit School Building Corporation Act, we are considering four townships, A, B, C, and D in our county in Indiana.

“Because of the terrain of the county and other factors, we need three eightroom schools for these four townships. A and B together need a school in which A will furnish one-third the pupils and B two-thirds. A and C need a school in which A will furnish one-half the pupils and C one-half. C and D need a school in which C will furnish one-third the pupils and D two-thirds.

“QUESTION: Under the above named act, is it possible for these four townships to build these three schools, A and B uniting for one school, A and C for one school, and C and D for one school, in each case each corporation to pay its pro-rata share of the costs?”

Section 1 of Chapter 273 of the Acts of 1947 provides in part as follows: