

Burns' 1933, same being Chapter 235, Acts 1933. If so authority to issue bonds for the acquiring the same or for "extensions, additions, betterments and improvements" is authorized by Section 19 of said act, same being Section 48-5319 Burns' 1933.

Long v. Stemm (1937), 212 Ind. 204, 211.

Authority is also given fifth class cities to make extensions, additions or improvements to water works, where the same is unencumbered, under the provisions of Section 48-5441 Burns' 1933, same being Section 1, Chapter 259, Acts 1933, and authority to issue bonds for such improvements or extensions are authorized by Section 10 of said act, same being Section 48-5450 Burns' 1933. It was held in the case of Long v. Stemm, *supra*. at page 211 of the opinion, that the use of either of the last two referred to statutes was optional in such municipality.

From the foregoing, it is clear the city not only has an inherent power to take the necessary steps to properly operate such utilities and make the necessary revocation of such poles and fire hydrants, but adequate authority is given it under several alternative statutes to issue its bonds if necessary for such expenses so incurred.

OFFICIAL OPINION NO. 69

December 1, 1947

Miss Margaret E. Lake,
 Secretary, State Board of Depositories,
 Public Deposit Insurance Fund,
 242 State House,
 Indianapolis 4, Indiana.

Dear Miss Lake:

I have received your request for an official opinion on the following question:

"* * * Are the funds, placed in custody of the Treasurer of a County Hospital Board, organized under the Acts of 1903 as amended, considered to be

public funds under the Public Depository Insurance Fund?"

Section 1, Chapter 3 of the Acts of 1937 (Burns' 1943 Replacement, Section 61-622) commonly referred to as the Public Depository Law, defines "public funds" as follows:

"The term 'public funds' means and includes all funds coming into the possession of the treasurer of state, treasurer of the board of trustees of any state benevolent, penal or educational institution, and all funds coming into the possession of any state officer by virtue of such office, and all funds coming into the possession of any local officer which are not impressed with a public interest nor designed for a public use."

From the foregoing definition it is clear that funds coming into the possession of any local officer by virtue of such office which are impressed with a public interest or designed for a public use constitute "public funds" within the meaning of said law.

I call your attention to the statute providing for the creation and operation of county hospitals. Section 22-3201 of Burns' 1945 Supplement authorizes the Board of County Commissioners in any county to provide a hospital by purchasing grounds therefor, constructing buildings and equipping them as a hospital, and to do all things necessary to acquire, establish, construct, equip and maintain such hospital. Under Section 22-3210 of Burns' the county council is authorized to make appropriations, and to levy an additional tax or to issue bonds necessary to provide the funds for such hospital. Section 22-3203 provides for the governing board of such hospital, three (3) of which board shall be composed of the county commissioners of such county and eight (8) others to be appointed by the judge of the Circuit Court.

Section 22-3204 of Burns provides that the governing board of such hospital shall meet at the time and place of the regular monthly meetings of the board of county commissioners. Section 22-3205 of Burns' provides that the governing board of such hospital shall elect a president, vice-

president, secretary, and treasurer. It further provides that the treasurer shall be custodian of the funds of such hospital and shall furnish bond in such amount as may be determined by the governing board, which bond shall be approved by the board.

Section 22-3206 of Burns' authorizes the township trustee to send poor persons to such hospital and to pay for their treatment and care. Also, Section 22-3207 of Burns' provides that the county hospital may receive patients for treatment and care for pay, which funds shall go into the treasury of such hospital to be used and expended for additional construction and equipment, betterment, maintenance and operation of such hospital, to the end that such hospital shall be and become as nearly as possible self-sustaining.

From the foregoing sections it seems clear that a county hospital is a function of the county government and that the treasurer of the governing board of such hospital is a local officer who receives by virtue of such office funds which are impressed with a public interest or designed for a public use within the meaning of the Public Depository Law.

In an opinion of the Attorney General (1937 Indiana O.A.G., page 215) it was held that the funds received by the Citizens Gas and Coke Utility of Indianapolis, a municipally owned utility, constituted public funds within the meaning of said depository law. Also, in another opinion (1940 Indiana O.A.G., page 112) it was held that the funds received by local housing authorities were public funds within the meaning of said depository law. In both of the situations dealt with in these official opinions there were boards created and operating similar to the board of a county hospital. The reasons and authorities set forth in these opinions holding the funds there involved to be public funds within the meaning of the depository law apply with equal force to the funds of a county hospital.

Based upon the foregoing reasons and authorities it is therefore my opinion that the funds placed in the custody of the treasurer of a county hospital board, organized under the Acts of 1903, as amended, are public funds under the Public Depository Insurance Fund.