

The authorities granted by the State Personnel Act are limited by the provisions of that Act. A statutory officer is not permitted to enlarge his powers and authorities merely because the exercise of such are not forbidden by the statutes. In order to exercise a power or authority it must be granted by the statute, and if the statute is silent on the subject, the courts will conclude no such authority or power has been granted.

Chicago & E. I. R. Co. v. Public Service Commission (1943), 221 Ind. 592, 49 N. E. (2d) 341;

Doyle v. Lafayette Savings Bank (1923), 81 Ind. App. 177, 179;

Bell v. Meeker (1906), 39 Ind. App. 224, 233, 234;

State *ex rel.* v. Sloan (1925), 197 Ind. 556, 560.

The Attorney General's Official Opinion No. 37, May 4, 1945, dealt with a state of facts very similar to those presented in your above letter. In the earlier opinion the Attorney General held that a local public health nurse was not within the provisions of the State Personnel Act but was governed by the laws applying to local public health nurses and other local health personnel.

Accordingly it is my opinion that county and city inspectors of weights and measures do not come under the provisions of the State Personnel Act and that their appointment is governed by the provisions of the Weights and Measures Law.

OFFICIAL OPINION NO. 19

May 7, 1947.

Hon. Benjamin H. Watt,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Sir:

A letter from your department has been received requesting an official opinion on the following question:

“Is a school corporation compelled to use a state adopted textbook in the teaching of a subject, in which subject no textbook has been used in the past?”

Section 28-666, Burns' 1945 Supplement, same being Section 1, Chapter 243, Acts 1945 provides as follows:

“The state board of education, hereinafter referred to as the board, shall make multiple adoptions of text books and enter into contracts with publishers of text-books to furnish them at fixed prices, so that there shall be a multiple list of text-books for all subject (subjects) in all grades of the public schools in the state of Indiana.”

Section 28-667, Burns' 1945 Supplement, same being Section 2, Chapter 243, Acts 1945 provides as follows:

“The provisions of this act shall apply only to those subjects for which credit is given in the public schools.”

Section 28-669, Burns' 1945 Supplement, same being Section 4, Chapter 243, Acts 1945, in part provides as follows:

“* * * Not later than December 15, 1946, the board at a meeting held for that purpose shall adopt and contract for a multiple list of three (3) text-books for each subject and grade, provided three (3) satisfactory text-books for such subject and grade are submitted. * * *”

While it is clear that the law contemplates the adoption of a textbook for each subject and grade, the question refers to the use of textbooks after adoption. The question is capable of two interpretations, but I assume your actual inquiry is whether there is any requirement that a textbook, which has been adopted, be used in a given subject and grade although the school does not wish to use a textbook. If the school does not wish to use a textbook at all in a given subject, I find no requirement in the law that one must be used. Consequently it is my opinion that a textbook, although one has been adopted, need not be used if no textbook at all is used

in a given subject. However, if a textbook is used in a given grade and subject, and one has been adopted for that grade and subject, the adopted textbook must be used.

OFFICIAL OPINION NO. 20

May 7, 1947.

Hon. Forrest V. Carmichael,
Executive Secretary,
Indiana State Teachers' Retirement Fund,
336 State House,
Indianapolis 4, Indiana.

Dear Sir:

Your letter has been received requesting an official opinion on the following:

"1. Does the man still in military service have the right to transfer to the provision of the 1945 law at any time upon his return to active teaching status?

"2. May a teacher, who has incurred disability while in the service of the United States Army or Navy and who is still disabled, have the right of transfer of membership beyond the period of sixty days after discharge, from former status to provision of the 1945 law?

"3. May a teacher, who has incurred disability while in the service of the United States Army or Navy and who is unable to teach, because of such disability, have the right to receive disability benefit from the Indiana State Teachers' Retirement Fund, following separation from the United States Army or Navy?"

Section 28-4511, Burns' 1945 Supp., same being Section 3, Chapter 328, Acts of 1945, and being a section of the Teachers' Retirement Act, provides in part as follows:

"* * * (k) Disability Benefit—Rate. Any teacher in the service of the public schools of the