(2) All appropriations should be made by the county council upon estimate or request by the proper legal officer in like manner as other appropriations are made by the county.

(3) The power of the county council to enter into contracts with the Public Employes' Retirement Fund is questionable and therefore, all such contracts should be executed by the county council, the county commissioners, and the officer and/or board which employs the county employees who are covered by the membership election.

OFFICIAL OPINION NO. 23
March 16, 1946.

Hon. Clarence E. Ruston, State Examiner,
State Board of Accounts,
Room 304, State House,
Indianapolis 4, Indiana.

Dear Mr. Ruston:

Your letter of February 13, 1946, has been received, in which you request an opinion regarding Chapter 295 of the Acts of 1945.

In your letter you state that in certain of the counties of this state defense plants have closed and are no longer furnishing products for use by the military services. You specifically desire to know if officers in counties who were qualified to receive the per diem authorized by the above statute at the time of its enactment are still entitled to receive such benefits where such defense plants have ceased to engage in such production of military products.

The preamble of Chapter 295 of the Acts of 1945 reads as follows:

"Whereas, the 1933 fee and salary bill fixed fees and salaries at a time of world-wide depression; and

"Whereas, since that time the United States Supreme Court has decided that salaries of officers and employees of political subdivisions of the state
are subject to Federal income taxes which have progressively increased; and

"Whereas, since 1933 the legislature has created the Indiana Welfare Department which today spends thirty millions of tax dollars and a great share of the work of collecting this money and administering its expenditure falls upon the county officials and for this additional burden no extra compensation has been granted; and

"Whereas, in numerous counties over the State of Indiana there are located defense plants, army camps, proving grounds, air bases or shipyards and these war projects employ thousands of workers; and

"Whereas, these workers to a large extent were not residents of the counties that are near these plants until they gained such employment; and

"Whereas, this great influx of population has created a great and ever increasing problem for every governmental unit in these counties; and

"Whereas, the county officials in each of these counties have had their work and responsibility greatly increased and often doubled by this tremendous rise in population; and

"Whereas, the 1933 salary act and all acts amendatory and supplementary thereto did not and could not take this increase in population into consideration when the salaries of these officials were fixed in direct ratio to the population of the various counties in 1933; and

"Whereas, every session of the legislature since 1933 has imposed additional duties upon such county officials without an increase of compensation; Now, therefore"

Section 1 of said Act provides as follows:

"The auditor, assessor, clerk of the circuit court, sheriff, recorder, judges of the circuit or superior courts and treasurer of each county in this state hav-
ing a population of less than seventy-five thousand according to the last preceding United States census, and in which is located a defense plant, or an army camp, or a naval base or station or a proving ground, or a shipyard, and in each county contiguous or near to such a county shall each be paid a per diem of one dollar and seventy-five cents for each day such official shall be engaged in the official duties of his office, said per diem to be in addition to all others (other) provisions of law for his compensation.”

Sections 2, 3 and 4 of said Act refer to other county officials, and Section 9 of said Act provides as follows:

“This act shall expire by limitation at midnight of March 31, 1947.”

In official opinion No. 31 of this office, dated April 13, 1945, to the State Examiner of the State Board of Accounts, it was held the foregoing statute was constitutional on the basis of granting fees for additional services, payable when the additional services were being performed.

It is a well recognized rule of statutory construction that statutes must be construed as a whole in order to determine the legislative intent.

Snider v. State ex rel. Leap (1934), 206 Ind. 474, 478;
State v. Ritter’s Estate (1943), 221 Ind. 456, 469-470.

From an examination of said Act in its entirety, and giving full credence to the legislative intent as expressed in the preamble of said statute, it is clear the legislature authorized the per diem on the basis of additional services which such officers would be required to perform. That the presence of such defense plants, army camps, etc., contiguous or near to the county in which such specified officers were holding office during the effective period covered by said Act qualified such county officers to receive such per diem.
It is equally clear from an examination of said statute and its preamble, that the legislature recognized the great influx of population in such localities increased the problems of the governmental units therein.

The mere fact a defense plant may cease to operate as such does not necessarily remove the increase in population occasioned by its original establishment in such locality, nor does it necessarily thereby diminish the amount of work such public officers would be required to perform in such instances.

It is to be noted that no practical method is prescribed in said statute for the determination of the question as to when such additional burdens on such governmental units have been removed.

Moreover, Section 9 of said Act places a specific limitation on the expiration of said Act at midnight of March 31, 1947.

I am, therefore, of the opinion that officers named in said Act who became qualified to receive such per diem since the enactment of said statute are entitled to continue to receive the same until the expiration date of said Act, at midnight, March 31, 1947.

OFFICIAL OPINION NO. 24
March 18, 1946.

Hon. Clement T. Malan,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Dr. Malan:

Your letter of February 21, 1946, has been received requesting an official opinion on the following questions:

"1. Does the State Committee on Safety, created under Section 47-1701, Burns' Indiana Statutes, 1933, have the authority to specify a particular type and design of mechanical arm signal devise for use on any school bus used to transport school children, as