

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.

I find no provision in the Indiana Personnel Act which authorizes you or the Indiana Personnel Board to review the action of the Board of Commissioners of Crawford County or to entertain an appeal by the person discharged. Therefore, it is my opinion that there is no jurisdiction to act in this purported appeal.

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OFFICIAL OPINION NO. 38

May 11, 1945.

Hon. Ralph F. Gates, Governor,  
State of Indiana,  
State House,  
Indianapolis 4, Indiana.

My dear Governor:

Your letter of May 2, 1945, received in which you request an opinion on the legal effect of Chapter 327 of the Acts of the General Assembly of Indiana for 1945. You specifically desire to know if the vocational director for the adult blind to be appointed by you under the provisions of said Act serves under the direction of the Board of Industrial Aid for Vocational Rehabilitation for the Blind, in view of the fact the plan previously adopted by the State Board of Vocational Education with the federal administrator under the Federal Vocational Rehabilitation Act, being Chapter 219 of the Act of June 2, 1920, as amended by Chapter 190 of the Acts of July

6, 1943, makes provisions for the funds to be received from the Federal Government to be expended under the State Board of Vocational Education.

The "Vocational Rehabilitation Act" being Chapter 219 of the Acts of Congress of June 2, 1920, same being Title 29, Sections 31 to 41, U. S. C. A., generally provides for federal assistance to those states accepting the benefits of such Act, and which states designate or create a State Board of Vocational Education to cooperate in the administration of said Act with the Federal Security Agency. The pertinent provisions of this Federal Act are only referred to due to the fact said Act was in substance rewritten and materially changed through its amendment by Chapter 190 of the Acts of Congress of July 6, 1943. See note, Title 29, Section 31, U. S. C. A., 1944 Cumulative Annual Pocket Part.

The provisions of the above Federal Act as previously enacted were accepted by the General Assembly of Indiana under the provisions of Chapter 204 of the Acts of 1921, same being Section 28-4920, Burns' 1933. Section 3 of Chapter 204, Acts 1921 designated the State Board of Vocational Education of this State as the agency to cooperate with the federal agency in accepting the benefits of said Federal Act and carrying out such general vocational rehabilitation program.

Title 29, Section 32, U. S. C. A. 1944 Cumulative Annual Pocket Part, same being Section 1 of Chapter 90 of the Acts of Congress of July 6, 1943, *supra*, provides in part as follows:

"(a) To be approvable under sections 31-41 of this title, a State plan for vocational rehabilitation shall—

"(1) designate the State board of vocational education (herein referred to as the 'State board') as the sole agency for the administration, supervision, and control of the State plan; except that where under the State's law, the State blind commission, or other agency which provides assistance or services to the adult blind is authorized to provide them vocational rehabilitation, the plan shall provide for administration by such State blind commission or other State agency of the part of the plan under which vocational rehabilitation is provided the blind: Provided, That in any State which by law has established a rehabilitation commission prior to the date of enactment of sections

31-41 of this title, with authority to provide rehabilitation services to disabled individuals, the State board may delegate to such commission all or any part of the operation of the State plan, under a written agreement of cooperation approved by the Administrator;”

Clauses 2 to 10 of the last quoted section of the federal statute provides that certain safeguards shall be established under the State's acceptance of such Act, including the submission of plans, policies and methods to be followed in carrying on such rehabilitation program, which plans are subject to the approval of the Federal Administrator. Authority for the carrying out of these requirements seems to be fully guaranteed under the provisions of Chapter 327 of the Acts of the General Assembly of Indiana for 1945.

Title 29, Section 35, U. S. C. A., 1944 Cumulative Annual Pocket Supplement, same being Section 1, Chapter 190, Acts of Congress of July 6, 1943, provides as follows:

“To facilitate the operation of State plans under sections 31-41 of this title, the Administrator is hereby authorized *to enter into agreements with two or more State boards needing access to special facilities and services* and to furnish to such boards, on a cost basis, services and facilities; and is hereby authorized to establish such needed facilities. Costs of establishing such facilities and furnishing such services for any State shall be paid from funds appropriated pursuant to section 31-41 of this title, but shall be deemed expenditures under the State plan, and reimbursement with respect to such cost shall be made by deducting an amount equal to such cost from payments made to such State under sections 31-41 of this title.”

Section 1 of Chapter 327 of the Acts of the General Assembly of Indiana of 1945, provides as follows:

“The board of trustees of the Indiana school for the blind shall constitute a board to perform the duties imposed by the provisions of this act, under the name of the board of industrial aid and vocational rehabilitation for the blind.”

Section 2 of Chapter 327 of the Acts of the General Assembly of Indiana of 1945, prescribes the rights, powers, duties and liabilities of said board of industrial aid and vocational rehabilitation for the blind.

Section 3 of Chapter 327 of the Acts of the General Assembly of Indiana of 1945, provides as follows:

“The governor of the state shall appoint a director of vocational rehabilitation for the adult blind who shall also serve as secretary of the board and shall act under the direction of the board of industrial aid and vocational rehabilitation for the blind in carrying out the provisions of this act and the federal vocational rehabilitation act, insofar as said federal act pertains to the vocational rehabilitation for the adult blind. The salary and terms of such director shall be fixed by the governor, and he shall be removable only for cause. All expenses incurred in the discharge of their duties by the director, assistants or agents shall be paid by the state from the funds provided for in this act, or from the funds otherwise appropriated, or from the incomes received by such board of industrial aid and vocational rehabilitation for the blind, or partially or totally from either of said sources.”

Sections 4 and 5 of Chapter 327 of the Acts of the General Assembly of Indiana of 1945 provide authority for such board created by such Act to promote, administer and supervise a state-wide program for vocational training and rehabilitation for the adult blind.

Section 6 of Chapter 327 of the Acts of the General Assembly of Indiana of 1945, reads as follows:

“Any and all of the powers, rights and liabilities heretofore conferred upon the state board of education to administer vocational rehabilitation to the adult blind, and any and all rights of said state board of education to administer state, federal or any other funds for the prevention of blindness and vocational rehabilitation of the adult blind, *shall*, from and after the passage of this act, *no longer be so administered by the state board of education*, but shall be administered only by and shall become a part of the powers, rights, and

liabilities of the board of industrial aid and vocational rehabilitation for the blind.”

Section 7 of Chapter 327 of the Acts of the General Assembly of Indiana of 1945, provides as follows:

“The State of Indiana does hereby, through its general assembly, accept the provisions of an act of congress entitled ‘An Act to amend an act entitled ‘An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment,’ approved June 2, 1920, such amended act approved July 6, 1943, and known as the ‘Vocational Rehabilitation Act Amendments of 1943,’ which said act provides that a state plan for vocational rehabilitation of the adult blind may be approved by the federal security administrator if submitted by a blind commission, or other agency which provides assistance or services to the adult blind, having authority to provide said adult blind with vocational rehabilitation; *and the said board of industrial aid and vocational rehabilitation for the blind is hereby designated as the sole agency for the cooperation with the federal board, agency or administrator for the purpose of carrying out the provisions and purposes of said federal act as it pertains to vocational rehabilitation of the adult blind, and is empowered and directed to cooperate with said federal board, agency or administrator in the administration of said federal act, and to direct the disbursement and administer the use of all funds provided by the federal government and this state for the vocational rehabilitation of the adult blind, and said board is hereby authorized to submit a state plan for the vocational rehabilitation of the adult blind to the federal board, agency or administrator pursuant to the provisions and requirements of said federal act.*”

Section 11 of Chapter 327 of the Acts of the General Assembly of Indiana of 1945 repeals all laws and parts of laws in conflict with said Act and specifically repeals Section 4 of Chapter 179 of the Acts of 1941, providing that the State Board of Public Welfare shall have supervision of the indus-

trial board of aid for the blind. Section 12 of said Act declares an emergency and same was in full force and effect when approved by the Governor of Indiana on March 9, 1945.

Chapter 327 of the Acts of the General Assembly of Indiana for 1945 is subject to the following well known rules of statutory construction:

The most common rule of statutory interpretation is the rule that a statute clear and unambiguous on its face need not and cannot be interpreted by a court and only those statutes which are ambiguous and of doubtful meaning are subject to the process of statutory construction.

Sullivan Statutory Construction 3rd Edition,  
Vol. 2, Section 4502;  
Hord v. State (1907), 167 Ind. 622, 624;  
Citizens Trust and Savings Bank v. Fletcher  
American Co. (1934), 207 Ind. 328, 334.

Where an office is created by statute, public officers may exercise only such powers as are expressly authorized by statute.

State, *ex rel.* v. Goldthait (1908), 172 Ind. 210,  
216, 217;  
State, *ex rel.* v. Home Brewing Co. (1914), 182  
Ind. 75, 91, 92;  
The State v. The Portsmouth Savings Bank  
(1886), 106 Ind. 435, 451;  
Dept. of Insurance v. Church Members Relief  
Assn. (1940), 217 Ind. 58, 60.

It is pointed out that the provisions of Chapter 327 of the Acts of the General Assembly of Indiana of 1945 concern only the vocational rehabilitation of the adult blind. The provisions of the federal statute and the prior State statute, previously referred to, concern vocational rehabilitation of a number of classes of afflicted or disabled persons including the vocational rehabilitation of the adult blind.

Under the above authorities it is clear that under the provisions of Chapter 327 of the 1945 Acts of the General Assembly of Indiana, the director of vocational rehabilitation for the adult blind, appointed by you under the provisions of Section 3 of said Act, "shall act under the direction of the board of industrial aid and vocational rehabilitation for the blind in

carrying out the provisions of this act." That the authority of the State Board of Vocational Education to administer such vocational rehabilitation program in cooperation with the Federal Administrator under the federal statute, has been withdrawn by the Legislature of Indiana, and that said State Board of Vocational Education has been thereby deprived of any power or authority to so carry on such function as far as the adult blind are concerned.

Under the above authorities it is clear that pursuant to the express provisions of Chapter 327 of the Acts of the General Assembly of Indiana of 1945, the State of Indiana has again accepted the benefits of such Federal Act and authorized said Board of Industrial Aid and Vocational Rehabilitation for the Blind to be the sole agency to cooperate with the Federal Security Administrator in providing a "plan" of cooperation for such rehabilitation program for the adult blind, and to direct a disbursement and administer the use of all funds appropriated by the State, or received from the Federal Government or from any other source, for such program.

I am therefore of the opinion it is necessary for the board of industrial education and vocational rehabilitation for the blind to prepare a plan, and submit the same to the Federal Administrator, for the carrying on of such vocational rehabilitation of the adult blind program, which plan is subject to the Federal Administrator's approval. That no other agency in the State of Indiana is now authorized to act for the State of Indiana in such capacity, as far as the vocational rehabilitation of the adult blind is concerned.

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OFFICIAL OPINION NO. 39

May 14, 1945.

Hon. Otto K. Jensen, State Examiner,  
 Department of Inspection and  
 Supervision of Public Offices,  
 State House,  
 Indianapolis, Indiana.

Dear Sir:

Your letter of March 13, 1945, received in which you request an official opinion on the following question: