

Upon the question of the power of public officers and agencies to contract I also refer you to a recent official opinion numbered 110, dated October 2, 1945, to the Director of the Department of Conservation, wherein numerous decisions are cited upon this subject. I am unable to find any statute in the State of Indiana conferring authority upon any public officer or public agency to contract for the erection of buildings at Indiana University, Purdue or State Teachers' College, the cost of which is to be paid from the fund created under Sections 13 and 14 of Chapter 357. I do not mean to say that there is no authority in any officer or agency to construct buildings or provide housing at the educational institutions from some fund, as that is not covered by your request and this opinion is limited to the "Postwar Construction Fund" in question.

It is, therefore, my opinion that the money which has accumulated from the alcoholic beverage excise tax and which is ear-marked for state institutional use cannot be expended by any state officer or agency for the construction of buildings or structures at said institutions without further and additional legislation.

OFFICIAL OPINION NO. 117

November 19, 1945.

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

Dear Sir:

This acknowledges your letter of October 31, 1945, in which you ask for an official opinion on the question of whether the fee provided by Chapter 154 of the Acts of 1945 for the issuance of certificates of births and deaths when collected, is the property of the local health officer who issues such certificates or is the property of the unit of government served by such officer.

Section 9 (b) of Chapter 154 of the Acts of 1945 in part provides as follows:

“* * * Said health officers shall charge for such certified copies of certificates, however, said charge shall not exceed the sum of one dollar (\$1.00);
* * *”

Said statute is silent as to whether the monies received for such charges are to be paid into any public fund or retained by such health officer for his fees.

In the construction of such a statute the court will look to the general purpose and scope of a statute to determine the legislative intent.

City of Indianapolis v. Evans (1940), 216 Ind. 555, 567;

State, *ex rel.* Bailey v. Webb (1939), 215 Ind. 609, 610.

It is to be noted the above quoted part of said statute leaves the amount to be charged by said health officers for such certified copies of certificates within the discretion of such health officers. This is inconsistent with any interpretation that such charges when collected should become a part of any public fund and clearly evidences the intention of the Legislature that such charges should be the personal funds of such health officers.

The above interpretation is entirely consistent with the statutes authorizing the salaries of local health officers, same being Section 35-118 *et seq.*, Burns' 1943 Supplement, same being Chapter 217, Acts of 1935. Section 3 of said Act, same being Section 35-121 Burns' 1943 Supplement, establishes an annual salary of two cents (2c) per capita based on the population of the city for local city health officers. Section 1 of said Act, being Section 35-118 Burns' 1943 Supplement, provides the annual salaries of county health officers shall be three cents (3c) per capita based upon the population of the county, less the population of any city or cities located therein having separate health officers and places a maximum of eighteen hundred dollars (\$1,800.00) per year on such county health officer's salary.

Section 10 of Chapter 217 of the Acts of 1935, same being Section 35-127 Burns' 1943 Supplement, provides:

"Upon the approval by the county commissioners of the county or the common council of a city, the health officer may receive gifts, donations, or other financial assistance from private individuals, corporations, or the state or federal government, provided the conditions under which the grant is made are fully understood and have the approval of the state board of health."

Under the last quoted section of the statute it is clear the salary given such health officer was not intended to be in full for services rendered but was to include among other things "financial assistance" from other sources including the state government.

I am therefore of the opinion the money received by local health officers for such certified copies of certificates provided for by Chapter 154 of the Acts of 1945 is the personal property of such health officers.

OFFICIAL OPINION NO. 118

November 19, 1945.

Hon. Clement T. Malan,
State Superintendent of Public Instruction,
State House,
Indianapolis 4, Indiana.

Dear Sir:

Your letter of September 24, 1945, received requesting an official opinion on the following questions:

"1. Can the commission adopt and contract for less than three books in a subject and grade and what limitations should be placed on the word 'satisfactory' in the law as it is used in giving the commission any powers it may have to adopt less than three books?"