

In this connection we refer you to page 508 of Chapter 186 of the Acts of 1945, the same being the Appropriation Act. This Act makes a separate appropriation for the Division of Weights and Measures under operating expenses for personal service for the fiscal year of ten thousand dollars (\$10,000.00) and for other operating expenses for the fiscal year of five thousand dollars (\$5,000.00). It is therefore our conclusion that it will be necessary for the Governor to appoint some one to the office of Commissioner of Weights and Measures and that this person when so appointed and qualified is the officer who should adopt and promulgate the rules and regulations provided for in said Act. In this connection we call your attention to the fact that under the Constitution the person so appointed cannot be the holder of any other public office under the State.

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OFFICIAL OPINION NO. 132

December 20, 1945.

Hon. Harold F. Brigham, Director,  
 Indiana State Library,  
 140 North Senate Avenue,  
 Indianapolis, Indiana.

Dear Sir:

Your letter of November 10, 1945, received in which you request an opinion on the question as to whether or not a public library may act independently to join the State Retirement Fund in accordance with the provisions of the State Retirement Act of 1945.

The Public Employees' Retirement Fund is created by Chapter 340 of the Acts of 1945. The pertinent provisions of said statute on the question presented are as follows:

Section 4 of said Act in part reads as follows:

"The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

"\* \* \*

“‘Municipality’ shall mean a county, city, town, township, and shall embrace, for the purposes of this act, a school corporation of any city, town, or township, and a public library. (Our emphasis.)

“\* \* \*

“‘Governing Body’ shall mean the county council, the city council, the trustees of a town, the township trustee and the township advisory board, board of school trustees, board of school commissioners or *library board*, as the case may be.” (Our emphasis.)

Section 19 of said Act provides in part as follows:

“Any municipality may elect, by ordinance or resolution adopted by the governing body as defined herein to become a participant in the Fund established by this act.

“A copy of any such ordinance or resolution, duly certified, electing to join the Fund and to make the required contributions thereto under the provisions of this act, shall be filed with the board of trustees of the Public Employees’ Retirement Fund of Indiana. Such ordinance or resolution shall designate by departmental, divisional, occupational or other definable classification, the employes who are to become members of the Fund. Membership in the Fund of any municipality or any group of employes thereof shall be subject to the acceptance and approval of the board of trustees of the Public Employees’ Retirement Fund of Indiana. \* \* \*”

I am therefore of the opinion that under the specific provisions of the foregoing statute a public library, by proper resolution of its board of trustees or governing body may elect to participate in such Fund upon approval of such election by the board of trustees of the Public Employees’ Retirement Fund of Indiana.