Under the 1943 amendment to said section the only places exempt from an inspection fee due the State Fire Marshal are those places set out in Clause (c), subsection (3). State, city or county buildings are listed under Clause (c), subsection (5), and therefore would not be within the exemption.

A change of legislative purpose will be presumed from a material change in the wording of a statute.


Under Section 20-1005, supra, such buildings require the issuance of a permit which shall expire on the last day of each calendar year, and provides that regardless of the time such permit is issued, the fee payable therefor shall be for a full year.

By such amendment of Section 20-1004, Burns' 1943 Supplement, supra, the legislature has evidenced its intention to require the payment of an annual inspection fee, and the issuance of an annual permit, for each of such State Armories wherein public amusements or entertainments are carried on.

It is, therefore, my opinion that said statute as so amended requires the Adjutant General's office to pay an annual inspection fee of five dollars ($5.00) on State Armories where public amusements or public entertainments are carried on, and requires permits to be issued annually for each of such buildings.

STATE BOARD OF HEALTH: Authority of Administrative Building Council to publish building codes, distribute copies to certain state officials, and sell other copies.

February 22, 1944.

Hon. Thurman B. Rice, M. D.,
State Health Commissioner,
Indiana State Board of Health,
1098 West Michigan Street, Indianapolis 7, Indiana.

Dear Dr. Rice:

This will acknowledge receipt of your letters dated January 13th, 1944, and February 1st, 1944, respectively, requesting
my official opinion as to the legality of a proposed plan whereby the Administrative Building Council of the state proposes to publish certain building codes, have a number of these codes distributed to certain state officials, and sell other copies to any person desiring a copy of the code. After the codes have been published it is proposed to make Purdue University the repository for the codes and when any person desired to purchase a code they could write to Purdue University, remitting the sale price of the code and Purdue University would then mail a copy of the code to the purchaser. Under the plan, Purdue University would account for the money and use the funds for the purpose of publishing revisions of the code, or to pay any other printing expenses incidental to the publication of such a code.

Answering your letters, I call your attention to the well settled proposition that a statutory administrative board is one of limited powers and jurisdiction and possesses only such powers as are expressly granted to it by the statute creating such board, and such other powers as may be necessarily incident to the power expressly granted.

State Board of Tax Commissioners v. McDaniel, 199 Ind. 708 on 716;
State Board of Tax Commissioners v. Belt R., etc., 191 Ind. 282 on 285.

The Administrative Building Council is created pursuant to the provisions of Burns' 1933, Section 20-401 et seq. Burns' Pocket Supplement, Section 20-404, defines the powers and duties of the Administrative Building Council in the following language:

"It shall be the duty of the administrative committee, and it shall have power, jurisdiction and authority: to administer, execute and enforce any and all laws now in force or hereafter enacted in this state relative to the construction, repair, or maintenance of places of employment, public buildings, tenement-houses, and all other buildings, * * * so as to render the same safe and sanitary.

"To ascertain, fix and order such reasonable standards, rules, regulations, classifications, approval of plans and specifications of places of employment and
public buildings, and other buildings as above set out as shall be necessary to carry out the purpose of this act. The majority of the administrative committee shall constitute a quorum for the exercise of the powers or authority conferred upon it. In case of a vacancy the remaining two (2) members of the administrative committee shall exercise all the powers and authority of the administrative committee until such vacancy is filled.” (Our emphasis.)

Under the underscored language above quoted, the Administrative Building Council clearly has the power and authority to prepare, adopt and approve of a building code or codes containing reasonable standards, rules, regulations, classifications and plans and specifications contained in a code such as mentioned in your letter. However, a careful examination of the entire act, which is Chapter 64, Acts 1923, as amended by Chapter 318, Acts 1935, and Chapter 290, Acts 1943, fails to disclose any language which expressly confers upon the Administrative Building Council the power and authority to print, publish and sell any book, pamphlet or code in any form whatsoever, or to pay for the printing of any such material.

Burns' R. S. Replacement, Volume 1943, Section 63-1641, reads as follows:

"The board of public printing shall have power and it shall be its duty to act as purchasing agent for all state offices, departments, commissions, boards, bureaus, state educational institutions, and all other state institutions in the purchase of all manner of printing, lithographing, binding, stationery, electro-types, engravings, printing materials, and any and all office supplies authorized by law to be paid for out of state funds, and to enter into contracts with respect thereto: Provided, That any of the state educational institutions may elect not to come under the provisions of this act, in so far as they relate to the purchase of all or any part of their requirements for the printing, lithographing, binding, stationery, electro-types, engravings, printing materials and any and all office supplies: Provided, further, That any state educational institution so electing shall purchase all its requirements for
printing, lithographing, binding, stationery, electro-types, engravings, printing materials and any and all other office supplies from merchants and manufacturers who own and maintain places of business and pay taxes in the state of Indiana: Provided, further, That where any necessary printing, binding, lithographing, stationery, electro-types, engravings, printing materials, and any and all office supplies authorized by law to be paid for out of state funds are not available for purchase in this state or can not be purchased in this state at substantially the same price, contracts for such necessary printing, binding, lithographing, stationery, electro-types, engravings, printing materials, and any and all office supplies authorized by law to be paid for out of state funds may be received and accepted with the approval of the board of public printing from the lowest and best responsible bidder without the state of Indiana: Provided, further, That in contracts awarded without the state of Indiana, successful bidders must conform to labor standards approved by the board of public printing and this act.”

It will be observed that the above language provides that the “board of public printing shall have power and it shall be its duty to act as purchasing agent for all state offices, departments, commissions, boards, bureaus, state educational institutions, and all other state institutions in the purchase of all manner of printing, lithographing, binding, stationery, electro-types, engravings, printing materials, and any and all office supplies authorized by law to be paid for out of state funds, and to enter into contracts with respect thereto.” Also Section 63-1650 reads in part as follows:

“* * * and no purchases shall be made by any state department named and coming under the provisions of this act except through said board, unless otherwise herein provided.”

However, Section 63-1641 contains the following proviso, to-wit:

“* * * Provided, That any of the state educational institutions may elect not to come under the provisions
of this act, in so far as they relate to the purchase of all or any part of their requirements for the printing, lithographing, binding, stationery, electrotypes, engravings, printing materials and any and all office supplies: **"**

It is obvious from the clear, explicit and unambiguous language above quoted that any and all printing done under the supervision of the Administrative Building Council must be done by and through the State Board of Public Printing.

I call your attention to the provisions of Section 60-1004, Burns’ 1943 Replacement Volume, which reads in part as follows:

"** * * No office, board, commission, department, bureau or institution shall publish an annual report, but any office, board, commission, department, bureau or institution may, with the consent of the governor, publish regular or special bulletins or publications and pay for the same out of funds appropriated to such office, board, commission, department, bureau or institution, if authorized by law to do so: ** * *.""

It is my opinion that under this section of the statute the Administrative Building Council can, with the consent of the governor, acting through the State Board of Public Printing, publish such material as is authorized under the provisions of Section 20-404, supra.

In this connection, I call your attention to the provisions of Chapter 213, Acts 1943 (Burns’ Pocket Supp. 1943, Sec. 60-1501), which requires that rules or regulations made, adopted or promulgated by any officer, board or commission of the State of Indiana must be submitted to the Attorney General for approval as to legality, and when approved by him and the governor, copies thereof must be filed with the Secretary of State and Legislative Bureau. Therefore, this Act must be complied with in the event the Administrative Building Council sees fit to make, adopt and promulgate the code or codes referred to in your letter.

There is no statute now in force which authorizes any department, board, bureau or state officer to charge for any publication printed and published by the various state officials except Section 49-1614, Burns’ 1933, which authorizes the
Secretary of State to sell, under certain conditions, printed copies of the Acts of the General Assembly, and Burns' 1943 Pocket Supplement, Section 49-2008, which authorizes the reporter of the Supreme Court to sell, under prescribed conditions, copies of the published opinions of the Supreme and Appellate Courts of Indiana. Applying the rule of statutory construction, above stated in this opinion, I find no authority whereby the Administrative Building Council possesses any right, power or authority to publish and sell, either directly or indirectly, a book or pamphlet containing a code or codes such as mentioned in your letter.

Assuming, therefore, that Purdue University has duly elected not to come under the provisions of Section 63-1641, supra, it is my opinion that said university has the right to publish, at its own expense, a series of building code or codes such as mentioned in your letter and pay for the same out of its own funds, and said university would have the right to sell copies of such code or codes to any person wishing to purchase the same.

In your second letter of February 1, 1944, you submit the following additional questions, to-wit:

"(1) Would it be legal for us to make a contract with Purdue to furnish, suppose we say, three thousand of these codes at $1.00 each which would mean about three thousand dollars which would be assured income for them. Then Purdue with their own funds would publish the code and sell us three thousand copies and whoever else might wish the copies at whatever price agreed upon (perhaps $1.00 each). In this way it could be published by Purdue's funds and they would receive the money for the sale. We would secure the copies that we need at about the same cost and the public would have a depository where they could order these codes at any time.

"(2) Suppose that we should print the code ourselves—that is the Administrative Building Council—then after we had three thousand copies or how many we might need we would sell the plates to Purdue, making a legal transaction either for a nominal or a real sum of money after which, of course, Purdue would own the plates and might publish as they saw fit."
In view of what I have heretofore said in answer to your first letter of January 13th, I see no legal objection to either of the plans proposed in your second letter. However, such an arrangement must be a voluntary one upon the part of both the Administrative Building Council and Purdue University. If such an arrangement is voluntarily entered into by both parties involved, it is my opinion that the same would be legal but in the absence of such an arrangement being adopted it is my opinion that, under the statutes as they now exist, the Administrative Building Council does not have or possess the power and authority to do the things mentioned in your letter of January 13th, 1944.

SECRETARY OF STATE: Registration plate: The 1942 registration or license plates need not be exhibited in addition to 1944 plates.

February 23, 1944.

Opinion No. 19

Hon. Rue J. Alexander,
Secretary of State,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of February 21, 1944, requests an official opinion as follows:

"We would appreciate knowing whether it is permissible for the secretary of state to promulgate a rule or regulation to the effect that it will not be necessary for a motor vehicle to carry the 1942 license plate in addition to the 1944 plate."

There are two Acts of the 1943 General Assembly which are involved in the problem presented. Chapter 298 of the Acts of 1943, being Sec. 47-119a, Burns' 1940 Repl. Supp., took effect as an emergency Act on March 11, 1943, and provides as follows:

"The requirement of this act that the secretary of state shall issue two (2) number plates in addition to