that the 75c compensation, if available by proper appropriation, may be paid for the support of a neglected or delinquent child when such child is a ward of the court and residing in its own home.

PUBLICITY, STATE DIVISION OF: Funds may be expended on prizes in promotion of State Publicity.

Insurance: Publicity Division not authorized to spend funds to carry insurance against liability for negligence.

Expenditures: Funds of State Publicity Division may be expended on prizes in promoting State Publicity.

Contests: Publicity Division may spend funds for prizes in contests to promote State Publicity.

June 15, 1940.

Mr. J. H. Albershardt, Director,
Division of State Publicity,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you state that on February 28, 1940, at a regular meeting of the members of the Division it was decided to sponsor an essay contest among the various high schools in the State of Indiana, giving as a prize to the winner in each county a trip throughout the State with all expenses paid. Under the plan as proposed and adopted all high school children were eligible to enter the contest.

You state further that seventy-three children have been selected as winners, who are to be conducted on a 1200 mile tour of the State beginning Monday morning, June 17th, and continuing through June 22nd. These winners are to be conducted by buses, free of charge to themselves, with meals and lodging included. The total cost of the trip, including buses, meals and lodging, admission to State parks and insurance, amounts to approximately $1,350.00.

You request an official opinion as to whether under the law the above items may be paid out of the appropriation available to the Division.

The Division of State Publicity was created by Chapter 159 of the Acts of 1939. Acts of 1939, pp. 736, 737. The scope
of the authority of the Division is set out in Section 2 of the Act, which is as follows:

"Such Division of State Publicity shall advertise and promote the industrial, educational, recreational, agricultural, and residential advantages of Indiana and shall have authority to cooperate with any other department or agency, public or private, to institute and consummate such a program, and to enter into contracts for that purpose, and to expend moneys made available therefor, not to exceed the amount appropriated."


The language above set out, it will be observed, is quite general and undoubtedly leaves considerable discretion to the Division to formulate and adopt the plans for carrying out the purposes of the Act. I think the foregoing language is sufficient to authorize the adoption of the program referred to.

Section 4 of Chapter 159, supra, appropriates the sum of $25,000.00 annually for the purpose of defraying any and all expenses which may be incurred in carrying out the provisions of the Act. Acts of 1939, p. 737.

If I am correct in my conclusion that the above program may be legitimately adopted by the Division, it would seem clear that any legitimate expenses incurred in carrying out the program would be a proper charge against any unexpended balance, and I so hold.

I am obliged, however, to say that, in my opinion, there would be no authority for the purchasing of insurance against liability in tort against the State of Indiana.

Section 24 of Article IV of the Constitution of the State provides as follows:

"Provision may be made, by general law, for bringing suit against the State, as to all liabilities originating after the adoption of this Constitution; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.”

Under this provision no action may be brought against the State except by permission of the State. Such permission has
been given as to claims for money demands arising at law or in equity out of contract express or implied but no such permission is granted under existing law with respect to claimed liabilities against the State on account of tortious acts.

Burns' Indiana Statutes Annotated, 1933, Sec. 4-1501 to Sec. 4-1507.

See also on this subject the case of Busby v. Indiana Board of Agriculture, 85 Ind. App. 572, wherein the Court expressly held that the State Board of Agriculture was not liable in tort on the theory that it was an agency of the State.


Amendatory Laws: Must contain reference to amendatory nature in body of act.

Transfer Costs, School Children: Act requiring Dept. of Education to prepare report forms for computing transfer costs is unconstitutional.

June 17, 1940.

Hon. Floyd I. McMurray,
State Supt. Public Instruction,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you request an official opinion as to the constitutionality of Chapter 146 of the Acts of 1939. Acts of 1939, p. 701. This request grows out of the fact that if the above Act is valid, the duty devolves upon the State Department of Education in connection with the State Board of Accounts to prepare the necessary report forms for computing the per capita transfer costs for the several school corporations in the State of Indiana.

I desire to say at the outset that this question has been before the Circuit Court of Marion County, Indiana, in Cause No. 56995, entitled Center School Township of Marion County, Indiana, et al. v. The Board of School Commissioners of the City of Indianapolis, etc., in which case the Court on June 13, 1940, entered its judgment and decree that said