

corporation wherein such child resides shall furnish temporary aid for such purpose, which aid shall be allowed and repaid to such school corporation by the township overseer of the poor, in the manner provided by law for the relief of the poor, upon presentation of an itemized statement of such temporary aid."

Burns Annotated Indiana Statutes of 1926, Sec. 6459.

The above section is in full force and effect and applies to children subject to the provisions of the act.

You ask further whether this law applies only to children of employment age. In my opinion, it is not thus limited. It applies to all children who are subject to the provisions of the act, that is, children between the ages of seven and sixteen years.

HIGHWAY COMMISSION: Liability of commission for injuries caused by negligence of employee or by defective machinery.

October 16, 1933.

Hon. James D. Adams, Chairman,
State Highway Commission,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion as to the liability of the State Highway Commission in tort by reason of a personal injury by accident to a member of the public as distinguished from an employee, *assuming for the purpose of the case only* that the injury was caused by a defective brake on a truck owned by said commission and which, at the time, was in the charge of an employee of the commission in the line of such employee's duty, or was caused by the negligence of such employee.

The State Highway Commission is an agency of the state in the performance of a public function. It is generally held, in the absence of a statute creating such liability, that "neither a state nor the United States is legally liable to respond in damages to a person for an injury resulting from the misconduct, negligence or tortious acts of its officers or agents."

State v. Mutual Life Ins. Co., 175 Ind. 59, at p. 71.

See also the case of *Busby v. Indiana Board of Agriculture*, 85 Ind. App. 572, at page 575, where the court said:

“The Indiana Board of Agriculture was created as an agency of the state for the purpose of managing and conducting a department of the state pursuant to Art. 8, section 1 of the Constitution, section 159 Burns 1926. It is an involuntary corporation, organized, not for the purpose of profit or gain, but solely for the public benefit, and having only such limited powers as were deemed necessary for that purpose. In performing the duties required of it, appellee exercises a public function for the public good for which it received no private or corporate benefit. Being organized solely for a public purpose, no action lies against it for an injury received by a person on account of the negligence of its officers, unless a right of action is expressly given by statute.”

See also *Freel v. the School City of Crawfordsville*, 142 Ind. 27.

There is no statute expressly taking the State Highway Commission out of the general rule as above stated and in my opinion, therefore, there is no liability as against the commission under the facts assumed herein.

GROSS INCOME TAX: Gross income tax act—whether domestic mutual insurance companies are exempt.

October 17, 1933.

Department of Treasury,
State of Indiana,
Indianapolis, Indiana.
Attention: Hon. Leroy Sanders,
Gross Income Tax Division.

Dear Sir:

I have before me your request for an official opinion upon the question submitted by you as to whether domestic mutual insurance companies are exempt from taxes imposed under and pursuant to chapter 50 of the Acts of the General Assembly of Indiana of 1933, known as the “Gross Income Tax Act of 1933.”