ACCOUNTS, BOARD OF: Whether Uniform Salary Reduction Act of 1932 applies to school bus drivers and school teachers as to contracts in existence prior to effective date of act.  

June 5, 1933.

Hon. William P. Cosgrove,  
State Examiner,  
Indianapolis, Indiana.

Dear Sir:

I have before me your letter referring to chapter 70 of the Acts of 1932 and submitting the following questions:

"If a contract was made by a school corporation with school teachers, hack drivers or other employees prior to the taking effect of this act, would the salary reduction provision of the act apply?"

"Another question—Referring to section 4 of this act: Could the payments be made in accordance with such contracts although they would exceed the 90 per cent provision as to appropriations provided by said section?"

Section 1 of said chapter 70 provides, that:

"On and after the first day of the next ensuing fiscal year of the state or of any municipal corporation thereof, the salary of all officers of the State of Indiana and of the several municipal subdivisions thereof, including the officers of each county, township, city, town, school city, school town, school township and of each taxing unit or district in the State of Indiana, shall be paid in accordance with the schedule of compensation for such officers as provided in section 2 of this act; and the payment to, or acceptance by, any such officer of any compensation, or salary, in excess of such salary fixed or to be fixed as in this act provided, shall be and is hereby declared to be unlawful."


The term "officer" as used in the act is defined to mean "any officer or employee; in whatsoever capacity employed, who is paid for his services out of public funds."

The term "salary" as used in the act is defined to mean and include:

"Salaries, wages and compensation, paid to any person for the performance of personal services, which is paid from public funds and whether such salary, wage, compensation and fees be fixed by law or by an officer, board, commission or other public body authorized by law to fix salaries."


I think there may be some doubt as to whether the above language, broad as it is, can be held to apply to school hack drivers, who obtain their contracts as the result of competitive bidding, but it is unnecessary to pass upon this question in answering the above questions.

The Fourteenth Amendment to the United States Constitution clearly prohibits any state from passing a law which impairs the obligation of a contract. If chapter 70, supra, is held to apply to previously existing contracts, it impairs the obligations of such contracts and to that extent, the law itself, would be unconstitutional. I do not think, however, that such a conclusion is necessary. In the interpretation of statutes, it is well settled that such construction as will render them valid, will be given if the same can reasonably be done. Moreover, statutes are to be construed prospectively rather than retrospectively. Applying these principles, I think it is fairly within the terms of the statute to exclude the previously existing contracts referred to in your question from its provisions. In other words, in construing the act prospectively, I think it fairly may be assumed that the legislature did not intend to have it apply to pre-existing contracts. Moreover, if the above construction is erroneous, the same result would follow. The state is forbidden by the Fourteenth Amendment, supra, to pass any law which impairs the obligation of a contract. Your first question is answered in the negative.

As to your second question, section 4 of chapter 70, supra, provides that:

"All appropriations made for the payment of salaries in any municipal corporation of this state, during the fiscal year of such municipal corporation beginning next subsequent to the passage of this act, and each
year thereafter, shall in no case exceed, in the aggregate, ninety per cent of the appropriations made and expended for salaries in such municipal corporation during the year 1931."

This section does not operate with respect to previously existing individual contracts. It is in limitation of the authority of officers authorized to make appropriations. Before payments are made from public funds by officers in such cases, the payment, of course, should be supported by a legal appropriation.

GOVERNOR: Scope of chapter 75 of Acts of 1933 as a legalizing act.

June 5, 1933.

Hon. Wayne Coy, Under Secretary
To the Governor,
Indianapolis, Indiana.

Dear Sir:
I have before me your letter with reference to chapter 75 of the Acts of 1933 which reads as follows:

“All bonds, notes and other written obligations heretofore issued by or in the name of any county, township, municipality, special assessment or taxing district, either for corporate or municipal purposes, or for the purpose of constructing public improvements and in anticipation of assessments or special taxes levied or to be levied on account thereof, where said bonds, notes or other written obligations have been sold and the money received from the sale thereof retained, or where said funds have been used for the purpose for which said obligations were ordered to be sold, or where the improvement, on account of which said obligations were issued, has been completed and accepted, are hereby legalized and declared valid; and all proceedings and acts under which said bonds, notes or other written obligations were sold or issued are hereby fully legalized and declared valid.”