DEPARTMENT OF CONSERVATION: Third class cities—No power to appoint Park Board.

H. A. Woods, State Forester,
Department of Conservation,
Indianapolis, Indiana.

October 2, 1936.

Dear Sir:

This is in reply to your request for an official opinion as to whether or not a third class city may legally appoint a park board under existing laws.

Cities of the first and second class are authorized to maintain a “Board of Park Commissioners,” who shall have charge of all parks of the city, but I do not find any such a provision applicable to third class cities.

Chapter 129, Section 259 of the Acts of 1905 places parks under the control of the Board of Works in third class cities, and by Chapter 58 of the Acts of 1909, third class cities may create a board of trustees to manage their public parks.

Chapter 307 of the Acts of 1935 transfers the duties of the Board of Works to a newly created board known as the Board of Public Works and Safety. This applies to third class cities.

In direct answer to your inquiry, my opinion is that third class cities cannot appoint a park board such as is provided by law for first and second class cities.

COUNTIES: County Agent, procedure for filing salary claim.

October 8, 1936.

Hon. T. A. Coleman,
Assistant Director,
Co-operative Extension Work in
Agriculture and Home Economics,
Purdue University,
Lafayette, Indiana.

Dear Sir:

I have before me your letter submitting the question as to how bills covering salary and expenses of a county agent are
to be filed to authorize their payment. You have particular reference to item of salary of a stenographer.

The statute authorizing the appointment of a county agent provides for a county appropriation in applicable cases “to be used in paying part of the salary and expenses of such county agent, which may include compensation for office help.” (Our italics.)

Burns Indiana Statutes Annotated (1933), Section 28-4911.

The salary of the stenographer, therefore, is classified by the statute as an expense of the county agent. With this preliminary consideration it should now be observed that the method of filing bills covering the salary and expenses of the county agent is contained in the following language, quoting from the statute,—

“The county board of education is hereby authorized to file monthly bills covering salary and expenses of county agent, the same to be approved by Purdue University, with the county auditor who shall draw his warrant or warrants on county treasurer for the payment of same.”

Burns Indiana Statutes Annotated (1933), Section 28-4911.

I think the above language is unambiguous. It apparently is not intended that such a bill for salary and expenses shall be filed with the auditor for action of the board of commissioners. The language used makes this very clear. The bill should originate with the county board of education, should be approved by Purdue University, and then filed with the county auditor by the county board of education, and thereupon “the county auditor shall draw his warrant or warrants on county treasurer for the payment of same.” This provision of the statute is, of course, subject to there being an available appropriation, but otherwise the mandate appears to be peremptory.

Section 26-817 of Burns Indiana Statutes Annotated (1933) requiring the county auditor to publish certain claims is expressly limited to “claims that have been filed for the consideration of the board of county commissioners,” and “all
allowances made by the judge of any of the courts of the county." The claim of the county agent for his salary and expenses which may include compensation for office help is not such a claim.

PUBLIC SERVICE COMMISSION: Rural Electrification Corporation may not amend charter so as to include more territory.  

October 14, 1936.

Samuel L. Trabue, Commissioner,  
Division of Public Service Commission,  
State House,  
Indianapolis, Indiana.

Dear Sir:

This is in response to your request for an opinion as to the right of a local rural electrification corporation, to amend its articles of incorporation so as to enable it to operate in a territory not included in its articles of incorporation. The organization was perfected under the "Rural Electric Membership Corporation Act of 1935." (Acts 1935, Chapter 175, p. 838.)

The corporation has asked the Public Service Commission "to take such steps as are necessary legally to approve *** Articles of Amendment to the Articles of Incorporation of Rush County Rural Electric Membership Corporation and to extend the, or grant a new, certificate of convenience and necessity to said corporation to operate in the territory as extended or enlarged by the proposed amendment."

You submit the following questions:

"1. Does the REMC Act authorize an amendment to Articles of Incorporation, by which amendment the territory to be served by the corporation is extended?"

"2. If the answer to question No. 1 be in the negative, can such amendment to the Articles of Incorporation be made under any other statute, and if so what statute?"

"3. If the answer to question No. 1 be in the affirmative, can the amendment be approved by the Secre-