

**CITIES AND TOWNS: Municipal corporations, authority to increase salaries in excess of appropriations.**

June 9, 1937.

Hon. John W. Kern, Mayor,  
City of Indianapolis,  
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of June 8, enclosing copy of General Ordinance Number 33, 1937, as passed by the Common Council of the City of Indianapolis at its last meeting. You request an official opinion as to the legality of the provisions of this ordinance.

The ordinance provides for an increase in the salaries of members of the police department, the fire department and gamewell department, effective July 1, 1937.

It is my opinion that this matter is controlled by the provisions of chapter 150 of the Acts of the Indiana General Assembly, 1935. This Act provides for the establishment, by the proper legal officers of any municipal corporation, of the several tax levies and rates and provides for the publication of their annual budget showing in detail the money proposed to be expended during any year. The Act then contains the provision that:

“\* \* \* and the budget as set out by the municipal officers in the published statement or as modified on hearing by the state board shall limit the expenditure for the year, *except in cases of casualty or accident or extraordinary emergency.*”

The Act then provides that:

“In the event the proper legal officers of any municipal corporation shall contemplate to meet the emergency and determine the expenditure of more money for the current year than was set out in detail in the published budget or in the budget as modified as a result of a hearing before the state board of tax commissioners, said officers shall give ten days' notice by publication as herein provided for publication of the budget and proposed tax levy of such additional amount proposed to be expended, fixing a date when the same shall be considered and determined upon,

and taxpayers shall have a right to be heard thereon. No such proposed additional amount shall be appropriated or expended unless and until such appropriation and expenditure shall have been approved by the state board of tax commissioners, as hereinafter provided."

It is my opinion, therefore, that an additional expenditure of public funds for the purpose of salary increases can not be made during the year 1937 in excess of the published budget, without the approval of the state board of tax commissioners.

Your attention is further directed to a provision of the Act above quoted which makes any officer or officers of any municipal corporation, having authority to make appropriations for the expenditure of public money, guilty of malfeasance in office if they appropriate any money for any item set forth in the published budget in excess of the amount estimated to be expended, without having first given notice to the taxpayers and without certifying their determination to make additional appropriations to the state board of tax commissioners. The penalty is the amount of such excess so appropriated, together with costs and attorneys fees, plus 25 per cent of such amount.

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**PRINTING, BOARD OF PUBLIC: Appointment and duties.**

June 10, 1937.

Hon. Parke Beadle, Clerk,  
Board of Public Printing,  
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of June 9, 1937, in which you ask the question as to whether or not the Governor, under the Executive Administrative Act of 1933, now appoints the members of the Board of Public Printing.

In reply to this question your attention is directed to section 63-1601, Burns Indiana Statutes, 1933 revision, which provides that:

"The governor, secretary of state, auditor of state and reporter of the Supreme Court shall constitute the board of public printing."