

**CONSERVATION, DIVISION OF: Wolf Lake Park, power  
of Board of Department of Public Works to acquire land.**

September 2, 1937.

Honorable V. M. Simmons,  
Administrative Officer,  
Department of Public Works,  
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of September 1 in which you ask as to whether or not the members of the Board of the Department of Public Works, together with the members of the General Assembly, appointed by the Governor for the purpose of acquiring lands in Lake County on which to establish Indiana Wolf Lake Park, may proceed at the present time in the discharge of their duties.

In reply to this question, beg to say that chapter 287 of the Acts of the Indiana General Assembly, 1937, and particularly section 1 thereof, reads as follows:

*"Be it enacted by the General Assembly of the State of Indiana, That there is hereby levied for the year 1937 and annually thereafter for a period of seven succeeding years, the sum of two mills on each one hundred dollars worth of taxable property, which shall be levied and collected as other state taxes are levied and collected, and when collected shall be paid into the state treasury and shall constitute a separate fund to be known as the Indiana Wolf Lake Park Fund, and shall be used for the purpose of acquiring lands in Lake County, in the State of Indiana, which lands when so acquired shall be established and maintained as a state park, and shall be known as the Indiana Wolf Lake Park. In addition to acquiring the lands necessary to constitute such park, the department of conservation is hereby authorized to expend such sums of money out of the appropriation hereby made, in the operation, development, improvement and beautification of such park."*

Section 3 of the above Act provides that such lands shall be purchased by the members of the Board of the Department of Public Works, together with one member of the

Indiana State Senate and one member of the House of Representatives to be appointed by the Governor.

Section 4 of the Act provides that after the lands are obtained the park shall be established and shall be maintained as a state park by the Department of Conservation in the same manner as other state parks are maintained. It will be noted that a tax levy to the amount of two mills on each one hundred dollars worth of taxable property is levied and designated as a separate fund to be known as the Indiana Wolf Lake Park Fund, which fund is to be used in acquiring the lands for the park and in the operation, development, improvement and beautification of such park. This Act is sufficiently definite to constitute an appropriation by the legislature for the purposes described.

“Appropriation, as applicable to the general fund in the treasury, may, perhaps, be defined to be an authority from the legislature given at the proper time, and in legal form, to the proper officers to apply sums of money out of that which may be in the treasury, in a given year, to specified objects or demands against the state.

“And such an appropriation may be prospective, that is, it may be made in one year, of the revenues to accrue in another or future year, the law being so framed as to address itself to such future revenues.”

Ristine, etc., v. State, etc., 20 Ind. 328 at 338.

This proposition has again been announced by the Supreme Court in the following language:

“An appropriation may be made in different modes. It may be made by an act setting apart and specially appropriating the money derived from a particular source of revenue to a particular purpose. Our swamp land Act is of this character. 1 G. & H. 597; *Dodd v. Miller*, 14 Ind. 433; *Lange v. Stover*, 19 Ind. 175.”

Ristine, etc., v. State, etc., 20 Ind. 328 at 338.

It is my opinion, therefore, that since the Act operates as a valid appropriation of public funds for the purposes mentioned, the Board of the Department of Public Works, together with the two additional members appointed by the

Governor, have authority to enter into such contracts and agreements as are necessary to carry out the purpose of the Act. Since this money is not available, however, until July 1, 1938, payment of the contractual obligations cannot be made until that time and then only to the amount of money on hand within the particular fund and available for such purpose. You should further bear in mind that contracts in excess of the appropriation are absolutely void.

Williams v. City of Michigan City, 100 Ind. App. 136.

Subject to these limitations, it is my opinion that the board, as set up in the Act above quoted, has authority to now proceed in the discharge of their duties.

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**PURDUE UNIVERSITY: Appointment of trustees—term of office.**

September 3, 1937.

Honorable M. Clifford Townsend,  
Governor of the State of Indiana,  
State House,  
Indianapolis, Indiana.

My dear Governor:

This will acknowledge receipt of your request for an official opinion as to the length of term for which trustees for Purdue University should be appointed.

In regard to this question your attention is directed to chapter 45 of the Acts of the Indiana General Assembly of 1865, authorizing the acceptance of certain congressional land tracts for the purpose of the endowment, support and maintenance of at least one college for the teaching of such branches of learning as are related to agriculture and the mechanic arts. Section 2 of this Act reads as follows:

“That the Governor of this state, for the time being, and Alfred Poland (Pollard), of Gibson; Smith Vawter, of Jennings; Henry Taylor, of Tippecanoe, and Lewis Burke, of Wayne, and their successors, are created a body corporate, under the name of The Trustees of the Indiana Agricultural College.”