

PURDUE UNIVERSITY: Co-operative extension work in home economics. Petition for appropriation for home economics services, whether same must be made annually to authorize appropriation.

September 23, 1937.

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

Dear Sir :

I have before me your letter of September 20, 1937, enclosing a copy of a petition (signatures omitted) which was filed with the county council of Pulaski County in 1936 pursuant to chapter 98 of the Acts of 1931, page 405; Burns Indiana Statutes Annotated, 1933, section 28-5627.

The copy of the petition enclosed reads as follows :

“We, the undersigned citizens of Pulaski County, respectfully request the county council to appropriate a sum sufficient to care for the necessary travel and office expenses of the home demonstration agent for the year 1937 and annually thereafter so long as such agent is employed.”

You request an opinion as to whether the above Act should be construed as prohibiting the county council from making an appropriation for such purpose during any year *after* the year in which a petition is filed unless a new petition shall have first been filed during such subsequent year.

Obviously, the language of the petition is sufficient to authorize an annual appropriation without the subsequent filing of a new petition. It in terms requests an appropriation during the year in which the petition is filed and “annually thereafter so long as such agent is employed.”

The question is whether the Act requires an annual filing of a petition in order to authorize an annual appropriation or whether, the petition in proper form having been once filed it may thereafter be treated as a continuing request from year to year sufficient to authorize the county council to make an appropriation.

The county agent act which this act supplements contained a somewhat similar provision for an initial filing of a petition and the making of a deposit which had the effect of the creation of the office of county agent in the county, upon the filing of which petition and the making of said deposit it became the duty of the county council to "*appropriate annually not less than fifteen hundred dollars (\$1,500) and not more than four thousand dollars (\$4,000) to be used in paying part of the salary and expenses of such county agent * * **" (Our italics.) This was held to require the county council to make the appropriation annually without the filing of further petitions. *Comer v. State, ex rel.*, 184 Ind. 217 at pp. 220 and 221. The language of this Act, however, differs from that of the Act now under consideration in the use of the word "*annually*" after the word "appropriate" which I think requires the holding of the court in the above case without resort to interpretation. In other words, the language seems to me to be very clear and explicit.

Returning now to the language of the Act under consideration, we find the following:

"To enable counties to further develop their extension programs for the improvement and advancement of agriculture, home economics, and rural life and to provide funds for the same in addition to funds otherwise provided by law * * * county councils may, on receipt of a petition signed by not less than one hundred (100) taxpayers living within any county, not less than five (5) of whom shall be from each township in such county interested in agriculture, domestic science and rural life, appropriate funds to be used in the further development of the county extension program and paying the salaries and necessary office expenses of boys' and girls' 4-H Club agents, home demonstration agents, and other necessary assistants."

Burns Indiana Statutes Annotated (1933), Section 28-5627.

It will be noted that the above language is not mandatory either as to amount or as to whether the appropriation is required to be made annually or otherwise. Nor is it expressly provided as to when or how often the petition is to be filed or

as to what it shall contain. The provision is simply that county councils "*may, on receipt of a petition * * * appropriate funds * * **" The petition in this case is for the appropriation of funds "*for the year 1937 and annually thereafter so long as such agent is employed.*" (Our italics.) There is nothing in the Act which provides that the petition may not be made in this manner and especially in view of the fact that the council's acts thereunder are discretionary, I see no reason which, in the nature of the case, would prohibit a petition worded as this one is from operating as a continuing petition until the same is withdrawn or on account of withdrawals by removal of signers or otherwise the petition is insufficient in number.

Summarizing, I do not think that the statute requires a petition, worded as this one is, to be filed annually in order to authorize the council in its discretion to make an appropriation, provided it remains, from year to year, sufficient in number of signers and legal qualification for signing such a petition.

It should be noted in this connection that the petition under the county agent act is a petition "*for a county agent*" and its filing with the requisite deposit has the effect of the creation of that office in the county affected. That would continue to be true even though every signer should thereafter in the course of years remove from the county. I do not think that would be true, however, in this case where the filing of the petition can not in any sense be treated as authority for the creation of an office. Even after the petition is filed, the action of the county council is wholly discretionary. The purpose of the petition in this case seems to be to indicate the degree of public sentiment for an appropriation for the objects above referred to, and while I see no real reason which should require a new petition every year when it is worded as this one is, it seems to me that in order to be valid as a barometer of public sentiment on the subject, it should at any given time when it is to be effective contain the requisite number of signatures of legally qualified signers.