

TEACHERS COLLEGE, INDIANA STATE: Whether adoption of supplemental retirement plan, as provided in Acts of 1937, deprives teachers in said college of benefits of State Teachers Retirement Fund.

April 5, 1937.

Hon. Ralph N. Tiley,
President, Indiana State Teachers College,
Terre Haute, Indiana.

Sir:

I have before me your letter of March 30 calling attention to the specific appropriation included in the appropriations for the two State Teachers Colleges of Indiana, for retirement, pensions and annuities. You state further that the administrative authorities of the two colleges propose to purchase annuities for the administrative and instructional members of their staffs from the Teachers Insurance and Annuity Association of America organized under the laws of New York and authorized to do business in the State of Indiana, the proposed plan involving a joint contribution from the faculty members and from the college, the portion being paid by the college to be paid out of the above mentioned appropriations.

You submit the question as to whether the adoption of this plan automatically takes the teachers in said institutions now protected by the State Teachers Retirement Fund Act out of the protective features of said Act.

Your question grows out of that provision of Sec. 28-4511 of Burns Indiana Statutes, Annotated (1933), which, after defining who are members of the State Teachers Retirement Fund, contains the following language:

“Provided that teachers in any state institution which is operating under any pension or annuity system not provided for by the laws of the State of Indiana may not come under the provisions of this Act, but, in the event that these institutions cease to operate under the system mentioned above, the teachers may become members of the fund created under this Act, under conditions established by the Board of Trustees of the Indiana State Teachers Retirement Fund hereby created, Provided that those

conditions shall be consistent with the provisions of this Act."

I do not think the above quoted provision operates to destroy the rights of teachers in said institutions who have availed themselves of the provisions of the Teachers Retirement Fund Act, if the institution shall now avail itself of the above appropriation in setting up a supplemental plan.

In arriving at this conclusion, I think the provision of the Appropriation Act should be construed in connection with the above quoted provision so as to give effect to what is the evident intent of the legislature.

It may be claimed that the appropriation of a fund for retirement, pensions and annuities does not amount to a pension or annuity system provided by the State, so as to exclude it from the prohibitory language of the above quoted proviso, but it is difficult to see for what purpose the authority embraced in the appropriation was given unless it was for the purpose of providing a supplemental system, the details of which to be left to the institutions involved to work out.

It seems to me, therefore, that the purpose of this appropriation was to provide under State sanction and at least partially at State expense, a supplemental system of teachers' pensions and annuities, and that the carrying out of such plan would not be contrary to the proviso of the Teachers Retirement Fund Act quoted earlier in this opinion.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Intangible Tax Law. Chargeable to owner and not issuer of intangible.

April 8, 1937.

Hon. Homer O. Stone, Supervisor,
 Division of Small Loans,
 Department of Financial Institutions,
 Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of March 6, 1937, in which you submit the following question: