

**WELFARE, DEPARTMENT OF PUBLIC: Salary of county director of public welfare, regulation of.**

April 23, 1937.

Mr. T. A. Gottschalk, Administrator,  
State Department of Public Welfare,  
141 South Meridian,  
Indianapolis, Indiana.

Dear Mr. Gottschalk:

I have your letter of April 22 in which you ask as to the legality of a proposed regulation to be adopted by the State Department of Public Welfare as follows:

“Whenever in a county having a population of 400,000 or more, the County Board of Public Welfare shall fail to fix the compensation for services of a county director of public welfare duly appointed by the State Board of Public Welfare within the salary range established by the state department, all as provided in Section 3 of Chapter 41 of the Acts of 1937, then and in that event, if the county board within the time fixed by the state board, shall fail to fix the compensation after being duly ordered to do so by the State Board of Public Welfare, the State Department of Public Welfare may proceed to pay to the county director of public welfare so appointed compensation for his services at the minimum salary rate established by the state department in the same manner that other employees of the State Department of Public Welfare are paid, and shall make deduction for any amounts so paid from any public welfare reimbursements due from state funds to said county, setting forth the reasons for such deduction in connection with the reimbursements.”

By the Welfare Act of 1936 and the amendments thereto passed by the last legislature and which are now or will soon be in force, the state department was given very broad powers to carry out the purposes of the Act and to co-operate with the federal government so that the granting of assistance should not be interfered with or delayed, and the county departments are made the local agents of the state department in carrying out this work.

The state department is specifically "charged with the administration or supervision of all the public welfare activities of the state."

Sec. 5 the Welfare Act.

"It shall provide services to county governments including the organization and supervision of county departments for the effective administration of public welfare functions."

Sec. 5 (f) the Welfare Act.

"Make such rules and regulations and take such action as may be deemed necessary or desirable to carry out the provisions of this Act and which are not inconsistent therewith."

Sec. 5 (g) the Welfare Act.

"Under such rules and regulations as may be prescribed by the state department, designate county departments to serve as agents of the state department in the performance of all public welfare activities in the county, and when, in the opinion of the State Board, such supplemental services are necessary, provide part of the local administrative cost."

Sec. 5 (n) the Welfare Act.

The state department has also the power to delegate to any duly appointed agent of the state or county department, certain rights and duties by an appropriate resolution.

Sec. 27 the Welfare Act.

"Subject to the rules and regulations prescribed by the state department the county department of public welfare is hereby charged with the administration of assistance \* \* \* and such other welfare activities as shall be delegated to it by the State Department of Public Welfare."

Sec. 21 the Welfare Act.

Section 3 of Chapter 41 of the Acts of the General Assembly of 1937, which is now in force, authorized the appointment of a county director in Marion County by the State Board and empowers the state department to establish salary ranges for all the county directors. The state department has the power to order any official or board that fails or refuses to do its duty to proceed under the law and

the refusal to obey such order may be enforced by mandamus proceedings. Such a court proceeding might result in protracted litigation and pending the ultimate decision, a county department might be in a more or less chaotic state, resulting from the refusal of directors to work while receiving no compensation and a consequent change in directors from time to time for such reason. The state department could designate an agent to do such work and pay his compensation as a part of the administrative service under the sections of the Act above cited, but to do so would relieve the county from such payment and thereby enable it to benefit for its own wrongful act, and this should not be permitted if it can be avoided.

The state makes reimbursements at stated periods to the county departments. The county department will have to pay the salary of the director some time, for he would be entitled to at least the minimum salary from the time of his appointment and qualification and the full amount thereof when the salary is fixed by the county board if it is an increase over the minimum amount. The county would not be harmed in the passage of such a regulation by the state department.

Furthermore, in counties having a population over 400,000 the county director is appointed by the State Board and if there should be a failure of the county board in such a county to recognize such appointment by fixing the salary, the resulting condition would be a strong argument for such a regulation.

A corporation generally has the power to adopt regulations for its own government and for the government of those over whom it has jurisdiction.

Fertich v. Michener, 161 Ind. 472-481.

The primary meaning of the word regulate is to lay down the rule by which a thing shall be done.

State v. Lowry, 116 Ind. 372.

“Regulation means a rule of order prescribed by superior or competent authority relating to action under its control.”

State v. Miller, 263 Pac. 510-513, 33 N. M. 116.

Valid rules and regulations adopted by an administrative

body in accordance with the provisions of the Act creating such body are, in effect, a part of the statute.

Wallace v. Dohner, 89 Ind. 416.

The specific provision of section 5 (g), *supra*, gives the state department broad powers to make such rules and regulations as are necessary or desirable to carry out the provisions of the Act and when so adopted by the state board, have the positive force of law.

Answering your question specifically, I am of the opinion that the state board may lawfully adopt the proposed regulation. I am further of the opinion that when so adopted the state department may lawfully pay such county director from state funds available for reimbursement to such county so long as the county is not harmed thereby.

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**TREASURER OF STATE: Investment of Purdue Trust Fund. Right of department to use such fund to pay premium on bonds purchased above par.**

April 28, 1937.

Department of Treasury,  
State House,  
Indianapolis, Indiana.

Gentlemen:

I have had under consideration the request of the department for legal guidance with respect to the investment of the Purdue Trust Fund in consideration of chapter 49 of the Acts of 1937, page 287, and the several Acts of Congress relating thereto. A brief summary of the applicable legislation is desirable.

Section 1 of chapter 49 of the Acts of 1937, *supra*, authorizes the Department of Treasury of the State of Indiana to take charge of, hold, manage and invest said fund consisting of three hundred forty thousand dollars (\$340,000.00) for the use and benefit of the trustees of Purdue University, the *entire income* received from said fund to be paid in semi-annual installments to said trustees of Purdue University.

Acts of 1937, page 287.

Section 2 provides that the fund shall be held, managed, controlled and invested in accordance with the applicable