

The term "engine" as used in the Act, was evidently intended to apply to steam engines which required manual control.

It is my opinion, therefore, that electrical equipment which works automatically does not require the presence of an engineer.

**HEALTH, STATE BOARD OF: Warehousing Grain Act—
manner of terminating supervisory boards and disposing
of funds on hand.**

October 29, 1937.

Dr. Verne K. Harvey, Director,
State Board of Health,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of October 27 in which you submit the following questions with reference to the continued existence and operation of the Warehousing Grain Act, the same being chapter 98, Acts of the Indiana General Assembly, 1935.

"(1) May the one supervisory board, as proposed, administer its duties under the law? (See section 4 of the Act.)

"(2) What procedure, in the event the answer to the first question is in the affirmative, shall be followed pertaining to the abolishment of boards already existing and also pertaining to the money now in the possession, as such boards?

"(3) What becomes of this money now in the hands of the local supervisory boards, that is: Is it to be used by the department in the further administration of the Act or is it to be turned to the succeeding supervisory board for use in further administration of the Act? Or is this money to be turned into the state's general fund?

"(4) What procedure is to be followed in obtaining the money now in the Security Trust Company and into what funds does that money go? That is, does it go to this department or to the succeeding supervisory board or does it go to the general fund of the State of Indiana?"

In answer to your first question your attention is directed to section 4 of chapter 98, Acts of the Indiana General Assembly, 1935, which reads as follows:

“The commissioner is hereby authorized to appoint such local supervisory boards, for any county or counties which he may deem necessary, for the purpose of supervising generally, and under the direction of the commissioner, grain in storage, the issuance of certificates against such grain and carrying out of the purposes and enforcing the provisions of this Act. Such boards shall consist of not less than three nor more than seven members, each of whom shall be a producer of grain in the State of Indiana and a resident thereof. Each member, upon appointment, shall qualify by taking oath similar to that required of public officials and shall continue in office until his successor is appointed by the commissioner of weights and measures, who shall also have authority to fill any vacancies arising by reason of the resignation, death or removal by him of any such member or members. Each such board shall select such officers, keep such records and perform such duties as the commissioner of weights and measures may prescribe.”

It will be noted from a reading of this Act that the commissioner is authorized to appoint such local supervisory boards for any county or counties which he may deem necessary for carrying out the provisions of the Act. It is apparent from a reading of this section that one board might be given such territory as, in the judgment of the commission, they could conveniently supervise. If, in the judgment of the commissioner, therefore, one board could now handle the business of the entire state I can see no objection to such program being put into operation.

I am informed that shortly after the passage of this Act there were approximately sixty-five supervisory boards appointed in various counties throughout the state, which are still in existence. The above quoted section provides that upon the appointment of such boards by the commissioner such individuals so appointed “shall continue in office until his successor is appointed by the commissioner of weights and measures.” It would seem, therefore, that such members of local

supervisory boards are appointed to serve only at the pleasure of the commissioner and upon the naming of a successor his appointment is automatically terminated.

It is my opinion, therefore, that if the commissioner so desires he may appoint one supervisory board whose members shall be successors to all members formerly appointed and now serving on local boards. Such appointment would terminate the authority of the local board members now serving.

In answer to your second question it is my opinion that the only procedure necessary is to notify the local board members of the appointment of the successor board and that such appointment automatically terminates their duty. As to any moneys on hand it is my opinion that the funds collected by local boards, after the payment of expenses incurred by the local boards and the compensation of the sealer, as provided by section 21 of the Act, the remainder should be paid into the general fund of the State of Indiana. This is in accordance with the provisions of section 61-202, Burns Indiana Statutes, 1933 revision, which reads as follows:

“From and after the first day of October, 1925, in addition to the revenue which accrues to and is a part of the general fund of the state, as now provided by law, the general fund of the state shall consist of:

“Thirteenth. All of other moneys collected in any manner by the State of Indiana through any of its boards, commissions, officers or agents pursuant to any provisions of law, except such moneys as may be collected for the benefit of any fund or funds required by the constitution of the State of Indiana to be kept separate, * * *.”

In answer to your question number three I think the statute last above quoted requires that such funds be paid into the state treasury. It is my opinion that the original Act was intended to be self-supporting and that the fees paid in by the owner of the grain were required for the purposes of defraying the expenses of supervision and if now unexpended and no further need for the same appears they should be paid to the general fund of the State of Indiana.

In answer to your fourth question I have been unable to find any authority in the State of Indiana which authorizes the collection of money on crop loans by any member of the

department of weights and measures. I note that your department collected this money prior to the time when the 1935 Act above quoted, became effective. It is possible that this money was collected under some one of the Federal Acts having to do with the loaning of federal funds to farmers and stock men for agricultural purposes. You doubtless have in your files the authorization for the collection of this money. If you will furnish me with this additional information perhaps I can answer your fourth question.

MOTOR VEHICLES, BUREAU OF: Duplicate weight tax plates; special service charges by branch offices.

October 29, 1937.

Hon. Frank Finney, Commissioner,
Bureau of Motor Vehicles,
Indianapolis, Indiana.

Dear Sir:

This is in answer to your request of October 25, 1937, for an opinion as to the legality of certain rules and regulations which your bureau proposes to adopt providing for the furnishing of duplicate weight tax plates in the event of a loss of such plates by a motor carrier, and, also, providing that the weight tax payable under the 1937 Act may be paid, and a plate provided at one of your branch offices instead of requiring the plates to be obtained at the main office in Indianapolis.

Your first question is as follows:

“In the absence of any provision in the new Weight Tax Law for the issuance and collection of a fee for duplicate plates, may the department provide and charge for such plates in the same manner as duplicate license plates are provided and charged for under the Registration and Licensing Act?”

As you state in your letter, it is provided in the Registration and Licensing Act of 1925, page 570, chapter 213, section 6, that in the event of a loss of a license number plate your department may furnish a duplicate plate upon a proper showing; and the 1937 amendment of the Registration and