

In reply to your first question your attention is directed to section 48-1201, which defines a city of the fourth class as those having a population of ten thousand or over and less than twenty thousand according to the last preceding United States Census.

Section 48-1228 and section 48-1229, Burns Indiana Statutes, 1933 Revision, defines the maximum salary for city engineers.

Section 48-1233, Burns Indiana Statutes, 1933 Revision, then provides, "The salaries as herein authorized shall be in full for all services performed for the city including services for any public utility or utilities owned and operated by such city."

The Act then further provides that an additional compensation of not to exceed six hundred dollars (\$600) for services rendered in the operation of a municipally owned utility, may be authorized.

It is my opinion, therefore, that the salary of the city engineer cannot be increased for additional services required as building inspector.

Your answer to the first question is therefore in the negative.

In reply to your second question I think it is obvious that the city cannot do indirectly that which it cannot do directly. The law stipulates that the salary as fixed for the services of the city engineer shall be in full for all services rendered the city. I think this precludes his operating as building inspector on a fee basis.

LABOR, DIVISION OF: Labor, protection. Right of one plant to operate several departments simultaneously under different provisions of the statute.

December 17, 1937.

Mrs. Mary L. Garner,
 Director, Bureau of Women and Children,
 Division of Labor, State of Indiana,
 Room 404, State Capitol Building,
 Indianapolis, Indiana.

Dear Madam:

I have before me your request for an official opinion in answer to the following inquiry:

“Does 1933 amendment to section 3 regarding Female Labor (See Acts 1933, page 435, chapter 68)—two shifts of not over eight hours each, not over five days a week and not before six o'clock in the morning nor after twelve midnight—effect an entire plant in manufacturing industry or only the department operating such shifts? Could a separate department in same plant operate under original law—Acts of 1899, page 233, Burns 1914, section 8023—not before six o'clock in the morning nor after ten o'clock in the evening and no days specified? Both departments are in one and the same plant doing different types of operations.”

The section of the statute to which you refer is section 40-903, Burns Indiana Statutes Annotated, 1933, being section 3, chapter 142, Acts 1890, as amended by section 1, chapter 68, Acts 1933, which recites as follows:

“No person or corporation, or officer or agent thereof shall employ any woman or female young person in any capacity for the purpose of manufacturing, between the hours of 10 o'clock at night and 6 o'clock in the morning except that any manufacturing industry which operates two (2) shifts of not more than eight (8) hours each and not more than five (5) days per week may employ any woman or female young person in any capacity, for the purpose of manufacturing between the hours of 6 o'clock in the morning and 12 o'clock at night.”

In properly considering this section we must look to the intent of the Legislature.

“Courts must give effect to the intent of the Legislature, and, in seeking such intent, will look to the Act as a whole, as well as to each and every part thereof, to its title, its general purpose, and the evils or mischiefs it was enacted to remedy.”

Smith, Trustee, v. State, ex rel., 202 Ind. 185, 191.

Fox v. Board of Commissioners Carroll County,
203 Ind. 23.

Citizens' Trust & Savings Bank of So. Bend v.
Fletcher American Company, 207 Ind. 328.

The Legislative intent is expressly stated in the title of the Act.

“An Act concerning labor, and providing means for protecting the liberty, safety and health of laborers, providing for its enforcement by creating a department of inspection, and making an appropriation therefor, repealing all laws in conflict therewith.”

The first portion of the section above quoted, down to the word “except,” was originally section 3, chapter 142, Acts 1899; the remainder or proviso part of the section being enacted as an amendment in 1933.

It is clear that the Legislature intended to “protect the liberty, safety and health of laborers.” It will be noted that the amendment of 1933 in fact only added a provision which enlarged this protection by restricting the number of hours and days of employment under certain circumstances.

It is therefore my opinion that this section of the statute does not prohibit one plant or industry from operating separate departments simultaneously under each portion of this section.

ACCOUNTS, STATE BOARD OF: School town, division of taxes levied before organization; whether such towns are required to pay for school buildings built by township before organization of town and within boundaries of such town.

December 17, 1937.

Honorable Wm. P. Cosgrove,
State Examiner,
State Board of Accounts,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you state that in November of this year there was incorporated in Michigan Township, LaPorte County, Indiana, the Town of Lakeland. You also state that there are three school buildings owned and operated by said Michigan Township and that two of these buildings are within the limits of the Town of Lake-