

The provisions of section 12 are, if not expressly made a part of the Act itself, made so by implication, and the conclusion is that the section may be enforced and a penalty imposed for violation thereof.

Fourth. Your further inquiry is, how you should enforce section 12 in Delaware County by reason of the fact that the city court of Muncie holds a different opinion, as to the legality of this section, than does this department, and also in view of the fact that the prosecuting attorney refuses to file these cases in any other court in the county.

By reason of the fact that the prosecuting attorney has charge of criminal proceedings in his own county, this department is not now in a position to impose its will and wishes on said official. However, it may be possible and perhaps probable that a conference could be had with the official of the county named, with a view of obtaining an agreement with him to file the case in another court in the county, or to influence him to make a proper record upon presentation of the case in the city court, which could be appealed. In which event, of course, the question of legality of said section could be fully and finally adjudicated.

No other suggestion as to procedure appears open to your department.

---

**FARM, INDIANA STATE: Legality of proposed contract for electric current. Necessity to advertise for competitive bids.**

February 26, 1937.

Hon. Ralph Howard, Supt.,  
Indiana State Farm,  
Greencastle, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion as to the legality of a proposed contract, which you enclosed, for Electric Primary Power and Light Service, between the Board of Trustees of the Indiana State Farm and the Northern Indiana Power Company, wherein it is provided that the board shall purchase certain amounts of electrical current from the company at certain rates for a fixed term of not less than five years.

This opinion will deal only with the legality, not the expediency, of said proposed contract.

The Indiana State Farm was established pursuant to chapter 236 of the Acts of 1913. Section 4 of said Act, which is section 13-502, Burns Annotated Indiana Statutes of 1933, provides, among other things, for the selection of a site for the farm and for the appointment of the Board of Trustees. Said section further provides that "the Board of Trustees shall organize and shall conduct such institution under the provisions, so far as applicable, of the Act approved March 2, 1907, and amendments thereof, being 'An Act concerning the names, management and control of the State benevolent, reformatory and penal institutions, defining the powers of the Board of Trustees, prohibiting campaign assessments, providing penalties and repealing all laws and parts of laws in conflict therewith,' which Act and amendments thereof, in respect to all the rights, powers and duties of the board, and all rights, powers and duties of the superintendent, as well as all other officers and employes, shall govern and apply thereto."

The Act establishing the Indiana State Farm contains no provision except as above set out fixing the powers of the Board of Trustees with respect to awarding contracts. It is necessary, therefore, to examine the Act of March 2, 1907, referred to above, for the purpose of ascertaining the powers of the Board of Trustees. This Act comprises sections 22-101 to 22-119 of Burns Annotated Indiana Statutes of 1933. Section 22-105 specifically deals with purchase of supplies, bids and awards, and I quote to you that section of the statute in full:

"In the purchase of supplies, commodities or services that enter into the maintenance or operation of any of the institutions covered by this Act, it shall be the duty of the board to invite competitive bids through sealed proposals to the president of the board of each institution, and the lowest and best responsible bidder shall be awarded the contract, and the same provision shall apply to the construction and equipment for all buildings for any such institution. Public notice of such bids shall be given by publication in the two (2) leading newspapers in the county where such institution is located, and otherwise if considered beneficial. If such board deems it advisable and in the interest of

economy, it may, in its discretion, buy certain articles in quantity, or may contract for the purchase of particular commodities or services to be delivered or furnished to the institution over such period of time, and to be paid for at such rate or price, as it may determine. Such fact, however, shall be particularly stated in the notices. Blank forms for bids shall be furnished to all applicants but bids shall not be rejected because not contained on such form. Any or all bids may be rejected."

It is my opinion that the word "services" applies to contracts for electrical current and therefore it will be necessary for the board to invite competitive bids after proper publication as provided by the section above quoted. Otherwise it is my opinion that the contract is legal.

---

**ACCOUNTS, STATE BOARD OF: Salary of city controller and clerk-treasurer.**

March 1, 1937.

Mr. William P. Cosgrove,  
Examiner, State Board of Accounts,  
State House,  
Indianapolis, Indiana.

Dear Sir:

This is in response to your recent request for an opinion construing certain statutes which provide the compensation to be paid city controllers and city clerk-treasurers.

You refer particularly to chapter 233 of the Acts of 1933 (Burns Statutes 1933, Sec. 48-1202 to Sec. 48-1240), and especially to section 21 of that Act.

The Act classifies cities according to their population and provides how the salaries for each office in each class of cities shall be determined. Section 21 is as follows:

*"Council — Ordinance — Salaries — When Fixed — Change.*—The common council of each and every city shall, by ordinance duly enacted on or before the first Monday in September, 1933, and thereafter on or before the first day of April of the year in which elections for election of city officers are held, fix the an-