

POLICE, INDIANA STATE: Police pension program agreement. State Police disability and death benefit agreement.

June 17, 1937.

Don F. Stiver, Superintendent,
Indiana State Police,
State House,
Indianapolis, Indiana.

Dear Sir:

Your request of June 15 asks an opinion of this department relative to the legality of two agreements attached to said request. The agreements are: first, a pension trust agreement, and second, a supplemental agreement, both of which were drawn pursuant to chapter 54, Acts of 1937.

The pension trust agreement provides aside from preliminary understandings such as definitions etc., for the setting up of a pension trust with the Treasurer of State as trustee for the purpose of paying certain pensions according to pension classifications set out in the agreement, to members of the State Police force who have served in such police force for a period of time set out in the agreement and have attained the age of at least 55. The agreement sets out as to how much shall be deducted from the wages of each member of the pension fund and defines the rights, duties and liabilities of all parties concerned, among whom are the policemen, their beneficiaries, the trustee, the department and the pension engineers. There is a provision in the agreement for the payment of the necessary expenses pursuant to the provisions of chapter 54. There is nothing in the agreement relative to the salaries to be paid the engineers, however, the agreement provides that such salary shall be determined by the trustee, the engineers and the department. The agreement also sets out the procedure to be followed in the making of applications for pensions and there is likewise provision for the adjustment of pension classifications under certain circumstances.

The supplemental agreement provides for death and disability benefits payable to members of the department who can and do come within the provisions as set out in such agreement. The supplemental agreement provides among other things for the benefits, the payments, the rights, duties

and liabilities of the persons concerned. There is also a provision in the supplemental agreement where reference is made to the pension trust agreement for certain definitions, duties, etc. As in the pension trust agreement, the compensation of the engineers is left to be determined by the trustee, the engineers and the department.

I have examined both agreements and find that they are valid and legal and drawn pursuant to chapter 54 of the Acts of 1937.

ACCOUNTS, STATE BOARD OF: Release of officers from liability for loss of funds in bank failures. Ch. 121, Acts of 1937, includes clerks of circuit courts.

June 18, 1937.

Hon. W. P. Cosgrove,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of recent date concerning chapter 121 of the Acts of 1937 and submitting the following questions:

1. Do the provisions of chapter 121 of the Acts of 1937 apply to Clerks of the Circuit Court?
2. In case the law applies to Clerks of the Circuit Court, is the municipal corporation assuming the liability of the county?
3. Should a claim for the recovery of a trust fund due an individual from the clerk's office be filed with the Board of County Commissioners under section 3 of the Act?
4. In case only part of the funds in the hands of the Clerk of the Circuit Court are lost in a closed depository, what portion of each fund becomes an obligation of the county?
5. Is the county liable to the State of Indiana for that portion of fees and funds lost in closed depositories that have been on hand longer than 10 years?

The answer to your first question is in the affirmative. Section 1 of the Act specifically provides: