

OPINION 32

OFFICIAL OPINION NO. 32

December 28, 1972

Mrs. Esther D. Berner, Director
Aeronautics Commission of Indiana
Room 1025, State Office Building
Indianapolis, Indiana 46204

Dear Mrs. Berner:

This is in response to your request for my Official Opinion on the following question:

“Does the County Board of Aviation Commissioners have the exclusive power to fix and regulate the compensation of persons employed by it, in accordance with the appropriations of the governing council according to the Municipal Act of 1945?”

ANALYSIS

The County Board of Aviation Commissioners consists of members who control the Municipal Department of Aviation. The powers of the Board are to be found in Acts 1959, Ch. 15; IC 1971, 19-6-3-15, as found in Burns' Ind. Stat. Ann. § 14-1215 (1964 Repl.). The statute grants the Board specific and general powers to employ personnel and to pay them; the relevant portion of which follows:

“Further the Board shall have the power to elect a secretary from its membership or employ a secretary and fix the compensation thereof and to employ superintendents and managers, and such engineers, surveyors, attorneys, clerks, guards, mechanics, laborers and all employees the Board may deem expedient, and to prescribe and assign their respective duties and authorities and to fix and regulate the compensation to be paid to the several persons employed by it, in accordance with the appropriations made therefor by the council of such municipality.”

Acts 1972, P.L. 117, § 1; IC 1971, 17-1-24-18.1, as found in Burns' Ind. Stat. Ann. § 49-1072 (1972 Supp.), defines the

authority of the council to fix the salaries and number of employees. The statute reads as follows:

*“The authority to fix salaries of officers, deputies, assistants, and employees whose salaries are payable from any county fund, except as hereinafter provided, and subject to the provisions of this chapter [§ 26-501, 26-502, 26-504—26-551], is hereby vested in the County Council. Also, except as hereinafter provided, the authority to fix the number of deputies, assistants, and other employees whose salaries are payable from any county fund, is hereby vested in the County Council; * * * (Emphasis supplied.)*

Our guide in reconciling the above provisions is the general principle of statutory construction that the several statutes relating to one subject were governed by one spirit and policy, and were intended to be consistent and harmonious in their several parts and provisions.

Salem Community School Corp. v. Easterly, 275 N.E. 2d 317 (Ind. 1971); *Gaddis v. Bd. of Commissioners of Gibson Co.*, 92 Ind. App. 658, 179 N.E. 279 (1931); *Sutherland, Statutory Construction*, 3rd Ed. Vol. 2, Section 2021.

Standing alone Burns' Ind. Stat. Ann. § 14-1215 would vest in the Board of Aviation Commissioners complete discretion regarding the hiring and compensation of employees. However, with the later appearance of Burns' Ind. Stat. Ann. § 49-1072, both statutes, as they relate to the same subject matter, must be so construed with reference to each other that effect may be given to all the provisions of each, if this can be done by reasonable construction, so as to produce a harmonious result. In Burns' Ind. Stat. Ann. § 49-1072, it is provided that the authority to fix the salaries of officers, deputies, assistants, and employees, whose salaries are payable from any county fund is “hereby vested in the county council.” Additionally, the authority to fix the number of those employees is “hereby vested in the county council.” *Hereby*, which means by this act or document, is the word chosen by the Legislature to indicate the legislative intent as of the time of the enactment of the statute which was the authority to fix the number of employees and the amount of their compensation being vested in only the county council.

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This interpretation does not do unnecessary violence to Burns' Ind. Stat. Ann. § 14-1215, for by its statutory authority the Board of Aviation Commissioners is empowered to control the hiring of employees and direct their activities as described in Burns' Ind. Stat. Ann. § 14-1215, *supra*.

The Board of Aviation Commissioners has the power to hire employees, direct their activities, and recommend promotions on an individual basis, but the county council has the authority to fix the salaries of the employees and the number of the employees who may be hired.

CONCLUSION

It is, therefore, my Official Opinion that the County Board of Aviation Commissioners does *not* have the power to fix and regulate the compensation of persons employed by it and does *not* have the power to fix the number of employees. Only the county council has this power.