

1971 O. A. G.

OFFICIAL OPINION NO. 21

August 5, 1971

Hon. Kermit Burrous
State Representative
R. R. #3
Peru, Indiana

Dear Representative Burrous:

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

"1. Does IC 1971, 6-1-1-24 (P. L. 54) permit school corporations to make inter-fund transfers without additional appropriations being made?

"2. Does Acts of 1969, Ch. 483, permit school corporations to purchase equipment and supplies on the open market to the limit stated within the Act?"

ANALYSIS

Your first question refers to Public Law No. 54, which amends IC 1971, 6-1-1-24, as found in Burns' 64-1914, to permit the proper legal officers of a municipal corporation to transfer funds, pursuant to proper ordinance, from one account classification to another as long as the total published budget will not be exceeded. P. L. 54 would permit this to be done without the approval of the State Board of Tax Commissioners. (Note my opinion to the Governor dated April 14, 1971, in which I stated the Act appears to be unconstitutional as it deprives tax payers of their property without due process of law inasmuch as there is no provision for notice before tax funds can be shifted.)

Your question concerns whether or not a school corporation is included in the definition of municipal corporation. By definition, "Municipal Corporation" includes a school corporation. The statutory definition of "Municipal Corporation" which applies specifically to IC 1971, 6-1-1-24 is found at IC, 6-1-1-26, (Burns' 64-1916), and states as follows:

"The phrase 'municipal corporation' as used in the five preceding sections shall be deemed to include a

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county, township, city, incorporated town, *school corporation*, or any person or persons, or organized body authorized by law to establish tax levies for any purpose." (My emphasis)

Your second question refers to Acts of 1969, Ch. 483, which was vetoed by the Governor in 1969, and passed over the Governor's veto in 1971. This Act amends IC 1971, 5-17-1-1 as found in Burns' (1964 Repl.), Sec. 53-501. This Act increases from \$2,000.00 to \$4,000.00 the amount of purchases any unit of the state, county, township, city or town government may make without advertising for competitive bids.

IC 1971, 5-17-1-9, *supra*, defines the term "city, town and township," to include not only the civil city and town and township but the school city, town and township. Therefore, the school corporation is by definition subject to the controls of the statute, and must follow the procedures outlined in that statute.

CONCLUSION

1. It is, therefore, my opinion that if Public Law 54 is constitutional, then school corporations may also make inter-fund transfers without additional appropriations in accordance with the methods set out in IC 1971, 6-1-1-24.

2. A municipal school corporation is permitted to purchase equipment and supplies on the open market without bid procedures to the limits provided in the Acts of 1969, Ch. 483, inasmuch as a municipal school corporation is within the definition of the specified governmental units.