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spected by the state chemist, and the inspection fee paid thereon.

OFFICIAL OPINION NO. 50

November 29, 1968

SCHOOLS AND SCHOOL CORPORATIONS—Appointment of treasurer of governing body—School corporation of first class city.

Opinion Requested by Mr. Richard L. Worley, State Examiner, State Board of Accounts.

You have informed me that field examiners auditing the records of the School City of Indianapolis have reported that the Treasurer of Marion County is serving ex officio as Treasurer of The Board of School Commissioners of the City of Indianapolis, pursuant to Acts 1931, ch. 94, § 4, as last amended by Acts 1963, ch. 310, § 2, Burns IND. STAT. ANN. § 28-2304, but has not been appointed to that position by the Board. Section 301(2) of the Indiana General School Powers Act, Ind. Acts of 1965, ch. 307, as amended by Acts 1967, ch. 82, § 1, Burns § 28-6417(2), provides that:

“The governing body shall also . . . appoint a treasurer of the governing body and of the school corporation who is a person, other than the superintendent of schools, who is not a member of the governing body.”

The 1967 amendment added the provisions above to section 301.

Section 4 of Acts 1931, ch. 94, as last amended by Acts 1963, ch. 310, § 2, Burns § 28-2304, which applies only to City of Indianapolis schools, reads in part as follows:

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“The treasurer of the county in which such school city is situated shall be ex-officio treasurer of the board of school commissioners. The treasurer shall make monthly reports to the board of all amounts received and expended during the month, on the board’s account and the amount on hand to the credit of the board. He shall give bond to the approval of the board in such sum as the board may determine and with not fewer than two freehold sureties or a surety company surety.”

Your question is which statute applies to and governs the selection of a treasurer for the School City of Indianapolis.

Section 102 of The Indiana General School Powers Act, Burns § 28-6402, makes the Act applicable to all school corporations as defined in § 103, Burns § 28-6403, which reads in part as follows :

“(a) ‘School corporation’ shall mean any local public school corporation established under the laws of the State of Indiana, including but not limited to school cities. . . .”

The statute creating The Board of School Commissioners of the City of Indianapolis creates a “common school corporation, hereinafter sometimes called the ‘school city.’ . . .” Acts 1931, ch. 94, § 1, as amended by Acts 1955, ch. 123, § 1, Burns § 28-2301. The corporate name is The Board of School Commissioners of the City of Indianapolis. Since it is the common school corporation created by statute, it is within the definition of “school corporation” in the Indiana General School Powers Act.

The General School Powers Act is a general statute covering all Indiana school corporations except school townships, and sets out the powers and purposes of such school corporations, the organization and operation of the governing body, the purposes for which such corporations may borrow money and how they shall do so, their powers to sell and exchange property and the required procedures for doing so, and the methods of exercising miscellaneous powers such as operation of a school lunch program.

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Section 603 of the Act, Burns § 28-6451, provides an insight into the intention of the General Assembly in passing the Act:

“This act shall be liberally construed to permit the governing body of school corporations to conduct its affairs in a manner consistent with sound business practice to the ends that the authority of the governing body shall be clarified and that it shall be permitted to operate with the maximum efficiency consistent with accountability.”

Prior to the enactment of this statute, one who sought to discover the powers and duties of a particular school corporation was required to sift through a maze of special and conflicting legislation. Many school corporations operating under such special legislation had been unable to persuade the General Assembly to modernize their operations. The General Assembly, in my opinion, intended the Indiana General School Powers Act to give additional powers and duties to school corporation governing bodies. Section 602 of the Act, see annotation to Burns § 28-6450, reinforces that opinion:

“Except as provided in Sec. 601, this Act shall be supplemental and in addition to all other laws. The powers given to any school corporation under this Act shall be in addition to those given by any other law and shall not be subject to any limitations set out therein, or to comply with the provisions thereof, except to the extent provided herein by specific reference to a designated statute or the law relating to a given subject, and all laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict.”

Section 601, Burns § 28-6450, reads as follows:

“*Except for Sections 301, 303 and 304*, the powers given each school corporation in this Act and the limitations on such powers set out in this Act, shall not be construed to limit the power or authority of such governing body given by any other law.” (Emphasis added.)

The section under discussion, which requires the governing body to appoint a treasurer, is section 301, one of the sections excepted in section 601. Therefore, the General Assembly did intend that the powers given in such section and the limitations on such powers set out therein shall be construed to limit the power or authority of the governing body as given by any other law, including the special statute creating and granting powers to The Board of School Commissioners of the City of Indianapolis.

A general rule of statutory construction is that a general act will not repeal or amend provisions of a special statute without negative words.

“ . . . In the construction of statutes, specific provisions will prevail over general provisions with relation to the same subject-matter. And it is a rule of statutory construction that a general statute, without negative words, does not repeal the particular provisions of a former statute on a special subject to which the general language of the later act, if it stood alone, might be deemed to apply, unless the two statutes are irreconcilably inconsistent.” *State v. LaRue’s Inc.*, 239 Ind. 56, 57, 154 N.E.2d 708 (1958).

Negative words are present in this general statute. Further, the sole purpose of a court’s construing a statute is

“to seek, determine and carry out the purpose and intent of the Legislature. . . .

“also, when a statute is clear and unambiguous, a court has an imperative duty not to substitute or change its meaning.” *Town of Kewanna Water Works v. Indiana Employment Security Bd.*, 131 Ind. App. 400, 404, 405, 171 N.E.2d 262 (1961).

The General School Powers Act itself states that Section 301 shall limit the power and authority of the governing body as given by other law. This language is plain and unambiguous. Therefore, it is my opinion that The Board of School Commissioners of the City of Indianapolis is bound by this section of the general act, and must appoint a treasurer as provided in

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that section. They are not required to name the county treasurer as the treasurer of the School Board of School Commissioners unless they so desire. However, in my opinion, if the Board does desire to designate the Marion County Treasurer as the Treasurer of the Board, there is nothing to prohibit it from doing so. Furthermore, since statutory amendment or repeal by implication must be confined to those provisions only which are in irreconcilable conflict with other later provisions, it is my opinion that the Marion County Treasurer would be required to serve as treasurer of the Board if properly appointed.

OFFICIAL OPINION NO. 51

December 4, 1968

MENTAL HEALTH—Payment of maternity expenses of patient on leave of absence from public institution.

Opinion Requested by Dr. William F. Sheeley, Commissioner of Mental Health.

I am in receipt of your letter asking the following questions :

Is the State of Indiana responsible for payment of the hospital expenses incurred for the birth and the care after birth of an illegitimate child born to a state hospital patient who had been on leave of absence from a time prior to the conception of the child until a time subsequent to the delivery of the child? Does the fact that the child has since been made a ward of a Juvenile Court affect the answer?

In 1958 O.A.G. p. 76, the Attorney General was asked whether :