

OPINION 18

OFFICIAL OPINION NO. 18

September 13, 1966

INDIANA ARTS COMMISSION—Power to Receive Federal Funds—Governor Having Authority to Designate Agent or Officer to Effectuate Purposes of Federal Act.

Opinion Requested by Hon. Roger D. Branigin, Governor.

I am in receipt of your recent letter in which you state that the Indiana Arts Commission may apply for a Federal arts grant under Title III of the Elementary and Secondary School Act of 1965, and request my opinion on the following question:

“May the Indiana Arts Commission receive Federal funds, and also may it receive funds from private sources so it might supplement any Federal grants it receives?”

The Indiana Arts Commission was created by Acts 1965, ch. 248, the same being Burns IND. STAT. ANN., §§ 63-2801 to 63-2804, and is short enough to be reproduced here:

“63-2801. Appointment and term of members—Chairman.—There is hereby created a commission to be known as the Indiana Arts Commission which shall consist of seven [7] members to be appointed by the governor and to serve for a period of two years each from the date of their appointment. The governor shall also appoint a chairman from the commission.

“63-2802. Objects and purposes.—The objectives and purposes of this commission shall be as follows:

“(1) To encourage talent and private initiative in the arts throughout the state of Indiana.

“(2) To inaugurate ways to maintain and increase the cultural and artistic resources of Indiana.

“(3) To conduct studies with the view to formulating methods or ways by which creative activity and high standards and increased opportunities in the arts may be encouraged.

“(4) To inaugurate cultural exchanges and talent performances between Indiana and the other states.

“(5) To catalog the names and accomplishments of all existing talent in the field of the arts in Indiana and publicize the same in order that these talents may be made known and available for use not only in Indiana, but in the other states.

“(6) To create a council on the arts in each congressional district of the state so that the activities of the commission may be carried into each county and its promotional work projected into every city, town and neighborhood throughout the state.

“(7) To work actively with every presently existing organization in the field of the arts in an endeavor to encourage and expand the influence of the commission and increase the cultural levels throughout our entire state.

“(8) To bring the arts in their various aspects into the homes of the people of Indiana in order that our everyday life may be enriched and a cultural climate of true significance and permanent value be created throughout the state of Indiana.

“63-2803. Executive director—Appointment—Duties.—The governor shall appoint a salaried executive director of the commission whose duties shall be to assist the commission in promoting and carrying on the administrative work and activities of the commission.

“63-2804. Office facilities—Assistants to director.—Appropriate office facilities, supplies and equipment shall be provided for the executive director of the commission. The executive director shall, with the approval of the governor, appoint such additional assist-

OPINION 18

ants as may be needed to carry on the work of the commission.”

Whether the Commission could accept Federal aid is determined by Acts 1947, ch. 178, the same being Burns IND. STAT. ANN., §§ 61-1301 to 61-1305, which Act authorizes the state or any political subdivision thereof to cooperate with, and receive benefits from, the Federal government.

Section 2 of the Act, Burns § 61-1302, has this first paragraph:

“The acceptance by the state shall be made by the officer, board, bureau, commission, department, or division having authority by law to do the acts to effectuate the purposes of any such federal law, by, and with the consent of the governor.”

The only question, then, is whether the Commission has “authority by law” to do the required acts. In this connection it must be noted that the second section of the Act creating the Commission, as set out earlier, speaks in terms of “objectives and purposes” rather than of “powers and duties.” In no place does the Act make any grant of power to the Commission. Furthermore, as is implied by the second portion of your question, the Act does not contain any appropriation for the Commission, and so it is doubtful that the Commission could provide matching funds as is required by § 305 of the Federal Act, 20 U.S.C. § 845.

For the foregoing reasons it is my opinion that the Indiana Arts Commission as it is presently established may not receive Federal funds.

This opinion does not comment upon possible future action in accord with the second paragraph of the second section of Acts 1947, ch. 178, Burns § 61-1302, which provides:

“If there is no officer, board, bureau, commission, department or division having authority by law to do the acts to cooperate with the federal government or to effectuate the purposes of such federal law, and it is a matter which the state has power or authority to do, then the governor may designate or appoint an

1966 O. A. G.

officer or agency to administer, cooperate with, and effectuate the purposes of such federal law, and such officers or agency so designated or appointed with the approval of the governor shall administer the same.”

Since the answer to the first part of your question is in the negative, there is no need to consider the second part at present.

OFFICIAL OPINION NO. 19

September 22, 1966

**MOTOR VEHICLES—TOWNSHIP AND CITY OFFICERS
—Duty to Report State Traffic Violations—Duty to
Report Violations of City or Town Ordinances—
Availability of Traffic Violations Clerk.**

Opinion Requested by Hon. William J. Briggs, Prosecuting Attorney, 74th Judicial Circuit.

I am in receipt of your recent inquiry concerning the duty of Justices of the Peace to report convictions on traffic violations.

Your specific question is:

“Would you please advise as to whether Justices are required to forward record of convictions together with the fees provided in the Acts of 1965 in all cases relating to motor vehicles or whether they are required to forward records only in those cases where the traffic violation is a moving violation.”

Acts 1939, ch. 48, § 167, the same being Burns IND. STAT. ANN., § 47-2311, provides, in part: