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islature clearly intended the word "any" as used in § 2a to mean "all" or "every" and not each individual paper and defendant.

When section 2a is stripped of its exemplary language so as to read "for serving any . . . paper in all cases. . . ," the meaning is even more obvious that it refers to \$6.00 per case or lawsuit. In other words, the maximum sheriff's costs in any lawsuit is \$6.00 regardless of the number of trips, papers, or litigants.

THEREFORE, it is my opinion that Acts 1965, ch. 407, sec. 2a set sheriff's costs as described therein at a maximum rate of \$6.00 per case or lawsuit and sec. 2b sets sheriff's costs as described therein at a rate of \$10.00 per case or lawsuit.

OFFICIAL OPINION NO. 2

March 21, 1966

**INDIANA PORT COMMISSION—Accounting Relationship
with Auditor of State. Auditor as Sole
Authority to Issue Warrants.**

Opinion Requested by Hon. Mark L. France, Auditor of State.

Your letter was received requesting an Official Opinion specifically in regard to the accounting relationship of the Auditor of State with respect to the Indiana Port Commission. Your letter states in part, as follows:

“. . . the question is raised in my mind as to the intent of the Legislature with respect to the manner in which the Auditor of State is to service this account.

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“It would appear to me that our only function is to provide for a transfer to their custody all monies belonging to the Port Commission. They in turn would have complete authority and responsibility for the handling of their account from that point forward.

“In brief, it would appear to the writer that our accounting relationship would follow much the same procedure as that with the Toll Bridge Commission, the Universities, and other similar autonomous corporate entities created by the Legislature.”

It is true that the Indiana Port Commission is a body both corporate and politic in the State of Indiana, separate and distinct from the State in its corporate sovereign capacity, 1965 O.A.G., No. 38. However, your attention must be directed to the specific provisions of the Indiana Port Commission Act, Acts 1961, ch. 11, § 1, p. 14, as amended by Acts 1963, ch. 395, § 1, p. 1096, and Acts 1965, ch. 224, § 1, p. 521, as supplemented by Acts 1965, ch. 237, p. 608, as found in Burns IND. STAT. ANN., §§ 68-1201—1230, which would indicate the intent of the Legislature with respect to the Indiana Port Commission having complete authority and responsibility for the handling of their account.

There is no doubt that the Indiana Port Commission Act, *supra*, clearly indicates a legislative intent to provide the Commission with general broad powers with reference to holding, using, administering and expending funds whether such funds are from appropriations, transfers, proceeds of bonds, or revenues. Section 7(q) of the Act, Burns IND. STAT. ANN., § 68-1204(q), provides that the Commission is authorized and empowered:

“(q) To hold, use, administer and expend such sum or sums as may herein or hereafter be appropriated or transferred to the commission.”

Section 18 of the Act, Burns IND. STAT. ANN., § 68-1218, provides:

“All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds,

from revenues, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act, but prior to the time when needed for use may be invested to the extent and in the manner provided by chapter 9 of the Acts of the Indiana general assembly for the year 1945, insofar as applicable. Such funds shall be kept in depositories designated as depositories for funds of the state as selected by the commission, in the manner provided by the governing statutes in so far as applicable. . . .”

The legislative intent then is clear that the Commission has full power to hold, use, administer and expend funds received from any source. However, the Commission has, with specific limitations and required approval, the duty to administer and expend funds in the Indiana Port Fund which is held in the name of the Indiana Port Commission.

Section 12, Indiana Port Commission Act, *supra*, Burns IND. STAT. ANN., § 68-1210, creates the Indiana Port Fund as follows:

“A special and distinct revolving fund is hereby created, to be known as the ‘Indiana port fund.’ . . . Said fund shall be held in the name of the Indiana port commission, shall be administered by the commission, and all expenditures therefrom shall be made by the commission, subject, however, to the approval by governor and the state budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, . . . No transfer from said fund to any other fund of the state shall be made except pursuant to legislative action. All unexpended funds appropriated to the Indiana board of public harbors and terminals by sec. 6, of chapter 286 of the Acts of the Indiana general assembly of 1957 are hereby transferred to and made a part of the Indiana port fund hereby created, . . .”

The Legislature in subsequent appropriation Acts used terminology indicating the appropriation was to the Indiana

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Port Fund to be held for the use of the Indiana Port Commission.

Acts 1947, ch. 22, § 27(c), as added by Acts 1965, ch. 225, § 4, p. 524, as found in Burns IND. STAT. ANN., § 64-2928(c), reads, in part, as follows:

“One-third [1/3] of the entire amount of the cigarette tax fund of the state of Indiana remaining after charges thereto required by Section 27a hereby is appropriated as follows:

“(a) Beginning with the biennium starting July 1, 1965, the sum of . . . to the Indiana port fund created by Chapter 11, Acts of 1961, and held in the name of the Indiana port commission, to be used by such commission as authorized by law, . . .”

Acts 1965, ch. 192, § 3a, pp. 435, 441, reads, in part, as follows:

“. . . the monies appropriated to the Indiana Port Fund shall be employed by the Commission to construct facilities”

It is obvious then that the Legislature created a special and distinct revolving fund within the State Governmental Accounting System to be known as the “Indiana port fund,” to be held in the name of the Indiana Port Commission. Initially there was a transfer of an appropriation and subsequent appropriations made direct to the fund. The Legislature withheld authority to transfer from the Indiana Port Fund to any other fund of the State, Section 12, Indiana Port Commission Act, *supra*. The Legislature would not have felt it necessary to withhold such power if the fund was not intended to be within the State Governmental Accounting System. It is also obvious that monies appropriated to the Indiana Port Fund are monies, available or to become available, on deposit with and in the safe keeping of the Treasurer of State.

The provisions of Acts 1859, ch. 138, § 7, p. 227, as found in Burns IND. STAT. ANN., § 49-1809, limits payments to be made by the State Treasurer as follows:

“The treasurer of state is expressly prohibited from paying any money out of, or transferring any money from, the treasury of state, except upon the warrant of the auditor of state; and the auditor shall examine, with care, every demand and claim presented for payment, and shall be satisfied that every claim is just, legal, and unpaid, before he shall allow, audit, or countersign it; and, for that purpose, may require the affidavit of the claimant, or other evidence; and he shall require every claim to specify the particular items of indebtedness, but, when satisfied that any claim is just, legal and unpaid, and if there be money to the credit of the fund, and not before, the auditor shall issue his warrant on the treasurer for its payment out of the proper fund; and if there be money of such fund in the treasury when the warrant is presented, the treasurer shall pay it, but not otherwise; and when paid, the treasurer shall take a receipt therefor on the back, and shall cancel the warrant with a canceling hammer, and shall register, file and preserve the same.”

There are no express provisions in the Indiana Port Commission Act, *supra*, concerning the mechanics of making payments out of the Indiana Port Fund. A careful examination of the said Act reveals that no statutory authority exists which authorizes any person other than the Auditor of the State to draw warrants or checks upon the Treasurer of State for the payment of money from said fund. However, if the monies are paid out of said fund to the Commission for it to hold, use, administer and expend pursuant to the Commission's general power and duty, Section 7 (q) of said Act, *supra*, the Treasurer of State and Auditor of State would then have no further duties with respect to such monies paid to the Commission.

The Indiana Port Commission could initiate a request for approval of the State Budget Committee and the Governor to have all monies in the Indiana Port Fund paid over to the Commission for investment pursuant to the provisions of Section 18 of the Port Commission Act, *supra*.

In view of the above, your function in respect to the Indiana Port Fund is to provide for a transfer to the Port Commis-

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sion or an expenditure therefrom only on a request initiated by the Commission which is approved by the State Budget Committee and the Governor. As long as the money remains in the Indiana Port Fund, you have the only authority to issue warrants upon which the Treasurer of State will pay.

OFFICIAL OPINION NO. 3

March 31, 1966

SECRETARY OF STATE — 1955 COLLECTION AGENCY LAW — Exempted Person Advertising as a Collection Agency. Exempted Persons Soliciting Accounts for Collection. All Exempted Persons Governed by Other Statutes or Rules.

Opinion Requested by Hon. John D. Bottorff, Secretary of State.

The following is to answer your request for my Official Opinion interpreting the local laws which regulate collection agencies. Your request is written as follows:

“Are all persons and agencies listed in Chapter 304, Acts of 1955, Section 2, of the Collection Agency Law exempt from being licensed as a Collection Agency if they advertise as a collection agency and solicit accounts for collection?”

To answer your question I must ascertain the intention of the Legislature in enacting laws regulating collection agencies and give effect thereto. To ascertain the legislative intent I shall look to the prior law on the subject, to other statutes upon related subjects and to the conduct that the statute was designed to deter. *Hunt v. Lake Shore & MS Railway Co.*,