has defined the meaning of words used in a statute the judicial officers who interpret that statute are bound by the legislative definition and construction. *Adkins v. Employment Security Division*, 117 Ind. App. 132, 70 N.E.2d 31 (1946).

The express grants of authority in the last sentence of Burns IND. STAT. ANN., (1949 Repl.), § 36-2818, does not negate the interpretation of Burns IND. STAT. ANN., (1965 Pock. Supp.), § 36-2819, as granting similar authority by implication. In view of the stated legislative policy, the clear definitions of the terms used in the Motor Vehicle Highway Account Act, and the settled judicial rules of statutory construction, buildings acquired to be used exclusively in connection with the construction and maintenance of streets and highways are incidental to the proper construction and maintenance of streets and highways and, therefore, may be paid for from funds distributed to cities and towns from the motor vehicle highway account. See 1950 O. A. G., p. 65, No. 20.

In conclusion, it is my opinion that cities and towns may construct, purchase and lease buildings with funds distributed to them from the motor vehicle highway account to be used exclusively for purposes which are incidental to the purposes expressly stated in Burns IND. STAT. ANN., (1965 Pock. Supp.), § 36-2819, *supra*.

OFFICIAL OPINION NO. 28

August 12, 1965

A. C. Offutt, M. D.
State Health Commissioner
Indiana State Board of Health
1330 West Michigan Street
Indianapolis, Indiana

Dear Mr. Offutt:

Your letter of May 5, 1965, has been received and reads as follows:

"Re: Chapter 350, Section 12, Acts 1965, Indiana General Assembly.

"Above cited act, effective 1 July 1965, changes licensure fee on health facilities. In the administration
of this licensure program all 30 June 1965 expirations will be considered by the Indiana Health Facilities Council at its quarterly meeting 16 June 1965 and licenses issued on effective date 1 July 1965.

"Applications have been and are being received daily for renewal of 30 June expirations. These applications are accompanied by a $25 fee, pursuant to the provisions of Chapter 239, Acts of 1963, Indiana General Assembly. The fee increase, as noted above, is concurrent with the effective date of the new license which application was processed prior to the increase date.

"We respectfully request your opinion as to whether we must solicit additional fees prior to the effective date of the legal increase."

Acts of 1963, ch. 239, § 10, as found in Burns IND. STAT. ANN. (1964 Supp.), § 42-1457, provides as follows:

"The fee for license of the health facility as defined in this act shall be twenty-five dollars [$25.00], to be paid at the time of making application for such license and any annual renewal thereof. Such fee and application shall be submitted to the Indiana state board of health. The board shall transmit all such funds received by it to the treasurer of state."

Acts of 1965, ch. 350, § 12, reads as follows:

"Health Facility Fees. The State Board of Health shall charge and collect the following health facility fees:

"For a license to establish or maintain a health facility, fees shall be charged and collected upon the basis of the number of beds available for use according to the following schedule:

"(1) For not more than ten (10) beds, twenty-five dollars ($25.00) per annum."
OPINION 28

“(2) For more than ten (10) and less than twenty-six (26) beds, fifty dollars ($50.00) per annum.

“(3) For twenty-six or more beds, seventy-five dollars ($75.00) per annum.” (Emphasis added.)

Acts of 1965, ch. 350, § 21, reads as follows:

“The fees and charges fixed by this act shall be charged and collected in compliance with the provisions of Chapter 79, Acts of 1961, where applicable.”


“All permits, licenses, certificates of registration or evidences of authority granted by any state agency, but only as specifically enumerated in this section, shall be issued for a period of two [2] years rather than annually, such being for the right to engage in the following professions, occupations or businesses:

“Certified public accountants, architects, dry cleaners, athletic licenses for contestants and judges, professional engineers, land surveyors, librarians, real estate brokers, real estate agents, security dealers’ licenses issued by the Securities Commissioner, watch repairing, barbers, barber shops, beauty shops, beauticians, manicurists, electrologists, dental hygienists, dentists, embalmers and funeral directors, veterinarians, physicians, chiropractors, physical therapists, nurses, optometrists, pharmacists and assistants, drugstores or pharmacies, motels and mobile home park licenses.”

Therefore, the provisions of Indiana Acts of 1961, ch. 79, § 2, supra, are not applicable to the fees and charges of the State Board of Health for health facility licenses.

Acts 1963, ch. 239, § 11, as found in Burns IND. STAT. ANN., (1964 Supp.), § 42-1458, provides as follows:
“(e) A license to operate a health facility as defined in this act shall expire one [1] year after the date of issuance. It shall not be assignable or transferrable, shall be issued only for the person and premises named in the application, shall be posted in a conspicuous place in the health facility, and may be renewed annually in accordance with such rules and regulations as the council may promulgate relative to the renewal of such licenses.”

You have indicated that it is the intention of the Indiana Health Facilities Council to consider on June 16, 1965, the applications theretofore received by it which request renewals for licenses which expire June 30, 1965. You also indicated that the renewed licenses will be effective July 1, 1965. Section 11 (e) of the 1963 Act, Burns IND. STAT. ANN., § 42-1458, as quoted, supra, authorizes renewal of licenses in accordance with rules and regulations promulgated by the council, and § 6 (e) of the 1963 Act, Burns IND. STAT. ANN., § 42-1453 (e), empowers the council to “adopt rules and regulations governing the procedure for applying for licenses hereunder.” Section 8 of the 1963 Act, Burns IND. STAT. ANN., § 42-1455, requires that rules and regulations, to become effective, must be jointly approved by the council and the board of health and “promulgated in the manner provided by law for the promulgation of such rules and regulations of administrative bodies.” For the purposes of this opinion, it will be assumed that the board is authorized by properly adopted and promulgated rules to collect fees for and issue renewals of licenses prior to the effective date of the licenses.

The 1965 act enjoins the State Board of Health to charge and collect specified fees. It does not indicate in any way that the application of the fee schedule is dependent upon the period during which a license will be in effect. In Indiana, statutes are ordinarily given a prospective rather than a retroactive construction, Stewart v. Marson Construction Corp., 244 Ind. 134, 191 N.E.2d 320 (1963). Therefore, the amount of the fee to be charged by the board of health for a health facilities license will be dependent upon the date the fee is charged and collected, rather than the date the license is ef-
OPINION 28

The new fee schedule will be effective only on and after the effective date of the 1965 act, and fees for any licenses issued before that date, regardless of the period for which the licenses are effective, should be collected in accordance with the present fee schedule.

Section 23 of Indiana Acts of 1965, ch. 350, reads as follows:

"This act shall be in full force and effect from and after July 1, 1965."

That statement is not sufficient to disclose an emergency within the meaning of Article 4, § 28 of the Constitution of the State of Indiana, and therefore the act could not become effective before the date on which the session laws were distributed to all the clerks of the circuit courts in the State of Indiana as shown by proclamation of the Governor, July 8, 1965, at 5:30 P.M. Hendrickson v. Hendrickson, 7 Ind. 13 (1855); see also State v. Williams, 173 Ind. 414, 90 N.E. 754 (1910); 1961 O.A.G., page 99, No. 21. Neither could the act become effective before the effective date determined by the Legislature, see Combs v. Cook, 238 Ind. 392, 151 N.E.2d 144 (1958). Therefore, the act became effective upon the later of two dates, July 8, 1965, at 5:30 P.M.

It is my opinion that since the 1965 Act was not in effect in June of 1965, or on July 1, 1965, and since the 1965 Act affects only fees charged after its effective date, the fee charged by the board of health for any health facilities licenses issued pursuant to properly promulgated rules and regulations in June, 1965, or on July 1, 1965, regardless of the effective date of the license, should be the twenty-five dollar ($25.00) charge required by the 1963 Act.