Hon. Frederick T. Bauer
House Majority Leader
Indiana House of Representatives
525 Ohio Street
Terre Haute, Indiana

Dear Representative Bauer:

This is in response to your request for my Official Opinion relative to the interpretation and clarification of House Enrolled Act No. 1190, the same being ch. 180 of the Acts of 1965. Said act is amendatory of the Acts of 1949, ch. 245, § 4, as amended by the Acts of 1957, ch. 211, § 1, as found in Burns IND. STAT. ANN. (1961 Repl.), § 64-1354, which provides the standards for classifying all of the townships of this state upon the basis of which the salaries of deputy township assessors are fixed. Said 1965 Act does not effect a change in reality in the standards by which the classification of all townships is determined, which standards, as stated in said 1957 Act, are either the population of the township “according to the last preceding United States census” or the assessed valuation of the taxable property within the township “as shown by the assessment for the last preceding year.”

[The 1965 Act refers to “gross assessed valuation as shown by the county auditors abstract for the last preceding year,” which language conforms to that of the Acts of 1959, ch. 220, § 1, Burns IND. STAT. ANN. (1961 Repl.), § 64-1321, which 1959 Act is the statutory authority for fixing the salaries of township assessors. (Emphasis added.) I am reliably informed by personnel of the State Board of Accounts that, in classifying townships for the purpose of determining the salary range of deputy township assessors under the 1957 Act as well as the salary range of township assessors under the 1959 Act, the gross assessed valuation has been used in each instance, rather than using the net assessed valuation remaining after subtracting the total tax deductions allowed. Therefore, it would seem that the 1965 Legislature, by specifically referring to “gross” assessed valuation in the Acts of 1965, ch. 180, merely changed the wording to conform not only to that of the Acts of 1959, ch. 220, supra, but also to
correspond with the actual practice previously followed. Thus, this change in language does not result in a change in the standards used.] Because the 1965 Act does not actually effect a change in the standards for determining the classification of all townships in the state, it is unnecessary to quote said act (which would add substantial and undue length to this Opinion) nor to state what the particular standards are with respect to each classification. It is sufficient to state that the 1965 Act, like the 1957 Act which it supersedes, provides for eleven classifications of townships—commencing with Class (a), which is subdivided into three classes, to and including Class (i). Although there has been no change in the standards for determining such eleven classes of townships, the 1965 Act did effect a substantial change in the salaries of deputy township assessors includible in each classification.

A comparison of the Acts of 1957, ch. 211, § 1, supra, with the Acts of 1965, ch. 180, § 1, discloses that the said 1965 Act effected the following salary changes:

Acts of 1957, ch. 211, § 1

<table>
<thead>
<tr>
<th>Class</th>
<th>Chief Deputy and Real Estate Deputies</th>
<th>Other Deputies</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>$5,600-$6,000 per year</td>
<td>$4,200-$4,800 per year</td>
</tr>
<tr>
<td>(1)</td>
<td>$4,800-$5,400 per year</td>
<td>$4,200-$4,600 per year</td>
</tr>
<tr>
<td>(2)</td>
<td>$4,600-$5,000 per year</td>
<td>$3,600-$4,200 per year</td>
</tr>
<tr>
<td></td>
<td>Chief Deputy and Real Estate Deputy</td>
<td>Second and Third Deputies</td>
</tr>
<tr>
<td>(b)</td>
<td>$3,600-$4,200 per year</td>
<td>$3,000-$3,600 per year</td>
</tr>
<tr>
<td></td>
<td>Chief Deputy and Real Estate Deputies</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>$3,000-$3,600 per year</td>
<td>$2,600-$3,000 per year</td>
</tr>
<tr>
<td></td>
<td>Chief Deputy and Real Estate Deputy</td>
<td></td>
</tr>
<tr>
<td>(d)</td>
<td>$2,600-$3,000 per year</td>
<td>$2,200-$2,600 per year</td>
</tr>
</tbody>
</table>
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Chief Deputy

(e) \$150-$200 per month
(f) \$150-$200 per month
(g) \$150-$200 per month
(h) \$150-$200 per month
(i) \$150-$200 per month

Acts of 1965, ch. 180, § 1

<table>
<thead>
<tr>
<th>Class</th>
<th>Chief Deputy, Real Estate Deputy, and Deputies</th>
<th>Other Deputies</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) (1)</td>
<td>Not less than $7,200 per year</td>
<td>Not less than $6,000 per year</td>
</tr>
<tr>
<td>(2)</td>
<td>$5,200-$6,480 per year</td>
<td>$4,540-$4,970 per year</td>
</tr>
<tr>
<td>(3)</td>
<td>$4,970-$5,940 per year</td>
<td>$3,240-$3,890 per year</td>
</tr>
</tbody>
</table>

Chief Deputy and Real Estate Deputy

(b) \$3,890-$4,540 per year \$2,810-$3,460 per year

Chief Deputy, Real Estate Deputy, and Deputies

(c) \$3,240-$3,890 per year \$2,810-$3,240 per year

Chief Deputy and Real Estate Deputy

(d) \$2,860-$3,300 per year \$2,420-$2,860 per year

Chief Deputy

(e) \$165-$220 per month
(f) \$165-$220 per month
(g) \$165-$220 per month
(h) \$165-$220 per month
(i) \$165-$220 per month

As will be seen by the above comparison, there are but two types of changes effected by the 1965 Act, as follows:

1. In Classes (a) (1), (a) (2), (a) (3) and (c), the salary range applicable to what were formerly called (in the 1957...
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Act) “chief deputy and real estate deputies” now applies to “chief deputy, real estate deputy, and deputies.” (Emphasis added.) The salary schedule in each of said classifications except Class (c), also retains a salary range applicable to “other deputies.” In such instances, by having retained the “other deputies” salary classification, while at the same time having added “deputies” in the salary range applicable to chief deputy and real estate deputy, it would appear that the statute authorizes there to be “deputies” other than the chief deputy and real estate deputy, who may be entitled to a salary within the same salary range as that of such chief deputy and real estate deputy which would necessitate that they not be included within the same classification designated by the statute as applicable in determining the salary range of “other deputies.”

Your letter notes this confusion and asks “what the distinction is between ‘deputies’ and ‘other deputies’ as such terms are used in this particular subsection.” The only answer appears to be that there is no statutory distinction except as to salary. There is no legislative history, adjective or other thing which can be recognized to distinguish the meaning of the two terms. Therefore, it would be possible, under the 1965 Act in the classes in which both terms are used, to reclassify some persons from the classification of “other deputies” under the 1957 Act to “deputies” under the 1965 Act, thereby upgrading some such persons into a higher salary range.

2. The other basic type of change effected by the said 1965 Act is the changing of the permissible salary in each of the eleven classes of townships involved. As noted by your letter, the so-called “other deputies” and “second and third deputies” in two classes of townships, to wit: Class (a) (3) and Class (b), are in a salary range, which range, pursuant to the Acts of 1965, ch. 180, § 1, has been decreased from the comparable salary range provided by the prior 1957 Act. Thus, in both Class (a) (3) and Class (b), concerning the salaries of “other deputies” or “second and third deputies,” respectively, the minimum and maximum salaries payable to such under the 1965 Act are less than the corresponding minimum and maximum salaries previously payable under the 1957 Act. Your letter further states that you know that
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this was not the intent of the General Assembly. A comparison of each of the other classifications tends to confirm your statement, in that all other classifications show an increase in the minimum and maximum limitations upon the salaries payable to the deputy township assessors whose salaries are governed by said act.

However, it is to be noted that the Acts of 1965, ch. 180, § 1, expressly amends the Acts of 1949, ch. 245, § 4, as amended by the Acts of 1957, ch. 211, § 1, and, pursuant to the Indiana Constitution, Art. 4, § 19, the manner of amendment of an Indiana statute requires that "the sections or subsections amended shall be set forth and published at full length." The 1965 enactment is, therefore, in lieu of the Acts of 1949, ch. 245, § 4, in its entirety, as amended by the Acts of 1957, ch. 211, § 1, and § 2 of said 1965 enactment expressly repeals all laws and parts of laws in conflict therewith.

Although a reduction in salary of "other deputies" and "second and third deputies" in townships classified as (a) (3) or (b) may not have been intended, statements of the members of the General Assembly or of members of committees of the General Assembly concerning their understanding of a proposed bill are not admissible, particularly when there is no official verbatim record kept of committee hearings, which is the case in most states, including Indiana. It is stated in Sutherland Statutory Construction, 3rd Ed., Vol. 2, § 5009, in part, as follows:

"Although statements in the committee report as to the reason for or the nature and effect of the proposed law are freely used by the courts to determine the intent of the legislature, they have been more hesitant in resorting to similar statements made by the committee or other persons at the committee's hearings. In two states discussions before the committee have been resorted to for aid in construing statutes. But in at least one state it is definitely established that evidence of what occurred at a committee hearing is inadmissible as tending to show the legislature's purpose. Statements of members of the committee as to their understanding of the proposed bill or statements of interested parties are not admissible. Perhaps this
aversion may be explained by the fact that in most states no official verbatim record is kept of most committee hearings. At least it explains the scarcity of cases in the state courts involving the admissibility of statements made at committee hearings."

Thus, it is my conclusion that there is no means of interpreting the Acts of 1965, ch. 180, according to the rules of construction applicable in this state, which would result in any conclusion other than that said act results in lowering the minimum and maximum salary limitations of "other deputies" and "second and third deputies" who are within the township classification of either Class (a) (3) or Class (b).

However, as noted in the first part of this Opinion, with respect to those deputy township assessors in Class (a) (3), it would be possible, by reclassifying such persons or some of such persons and transferring them from the classification of "other deputies" to "deputies," to provide an increase in the salary of such persons, apparently the only limitation being that of the availability of funds for the payment of such increased salaries. Nevertheless, with respect to Class (b), this reclassification would be without authority because, as to such class, the 1965 version provides that the salary range applicable to the "chief deputy and real estate deputy" shall be applicable only to each of such deputies and provides no other classification of "deputies," except that of "second and third deputies."

Moreover, it should also be noted that § 3 of the Acts of 1965, ch. 180, is an emergency clause whereby said act shall be in full force and effect from and after its passage. Inasmuch as such an emergency clause would not have been necessary if the changes effected thereby were not to be operative until the payment of salaries pursuant to the 1966 budget, it is evident that said 1965 enactment is to be effective immediately upon passage. Thus, it is not necessary that township assessors wait until the next annual budget hearings to request salary increases, which are authorized by said 1965 Act, for their deputy assessors, but such requests may now be considered by county councils and approved and additional appropriations for such salary increases made, limited only by the availability of funds.