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“(d) Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.”

Thus, in the traffic safety act the Legislature has specifically included the sidewalk as a “portion of a street,” so as to provide state and local authorities with the power to regulate the activities of pedestrians.

Since the act concerning the use of Motor Vehicle Highway Funds by cities and towns for the construction, reconstruction, repair, maintenance, etc., of streets authorizes their use for the “cost of traffic policing and traffic safety,” by reference to the 1939 Act (Burns §§ 47-1801—47-2316), it is apparent that the use of such funds for the construction, reconstruction, repair and maintenance of sidewalks is includable in the cost of traffic policing and traffic safety.

Collaterally, the use of such funds as are allocated to a county have been construed to be available for the construction of sidewalks adjacent to highways by the county commissioners of a county. 1959 O.A.G., page 367, No. 70.

In conclusion, it is my opinion that the term “highways” as used in the acts cited herein includes the word “sidewalk,” and that funds distributed to cities and towns from the Motor Vehicle Highway Account may be used for the purposes set out in Burns 36-2819, supra, and specifically for the purposes of construction, reconstruction, repair and maintenance of sidewalks adjacent to streets in such cities and towns.

OFFICIAL OPINION NO. 65

November 23, 1965

Hon. William E. Wilson
Superintendent of Public Instruction
227 State House
Indianapolis, Indiana

Dear Mr. Wilson:

Your recent letter requesting an Official Opinion has been received and reads as follows:

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"The Acts 1965, Ch. 215, Sec. 2 being the State Minimum Salary and Sick Leave Law provides in part as follows:

". . . Each teacher employed in the public schools of Indiana shall be entitled to at least two (2) days for the transaction of personal business and/or the conduct of personal or civic affairs during each year of such employment. A written statement shall be submitted to the superintendent of schools setting forth the reason and necessity which shall be the cause of such absence. . . ."

"Will you please give me your Official Opinion as to the application of the foregoing quoted provision of the statute to the following questions?

"(1) If the teacher is absent pursuant to the above statutory provision, is it mandatory that the school corporation pay for such day or days so absent?

"(2) Can the local school corporation by rule or otherwise require a prior notice from the teacher that she will be absent?

"(3) May the local school corporation adopt rules requiring the School corporation's approval of the reasons of such leave of absence?"

In construing a statute a court will look to its general purpose and scope to determine the legislative intent thereof.

*City of Indianapolis v. Evans*, 216 Ind. 555, 567, 24 N.E.2d 776 (1940);


Also, it has been held that legislative intent is to be ascertained by an examination of the whole, as well as the separate parts of the act.

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In 2 R.S. (1852), ch. 17, § 1, as found in Burns IND. STAT. ANN., § 1-201, it is stated:

"The construction of all statutes of this state shall be by the following rules, unless such construction be plainly repugnant to the intent of the legislature or of the context of the same statute:

"First. Words and phrases shall be taken in their plain, or ordinary and usual, sense. . . ."

The Supreme Court in State ex rel. Roberts v. Graham, Trustee, 231 Ind. 680, 110 N.E.2d 855 (1952), stated:

"Courts interpret statutes for the purpose of ascertaining legislative intent. Zoercher v. Indiana Associated Telephone Corp. (1937), 211 Ind. 447, 7 N.E.2d 282; 50 Am. Jur., Statutes, 200. Such intent must be determined primarily from the language of the statute itself, 50 Am. Jur., Statutes, 210, which language must be so reasonable and fairly interpreted as to give it efficient operation and to give effect, if possible, to the expressed intent of the legislature, State v. Griffin (1948), 226 Ind. 279, 79 N.E.2d 547."

In reading Acts 1945, ch. 231, as last amended by Acts 1965, ch. 215, § 2, as found in Burns IND. STAT. ANN., (1965 Supp.), §§ 28-4332 and 28-4333, we find that said act generally deals with and provides for a schedule of minimum wages or salaries that must be paid to licensed teachers who work during a school year of nine (9) months. Section 1 of said act sets out the basic schedule of minimum compensation which must be paid to teachers with specified experience, and section 2 of said act provides for salary adjustments for varying school terms, other designated benefits and definitions, and in addition, provides for the following:

". . . Each teacher employed in the public schools of Indiana shall be entitled to at least two (2) days for the transaction of personal business and/or the conduct of personal or civic affairs during each year of such employment. A written statement shall be submitted to the superintendent of schools setting forth the reason and necessity which shall be the cause of such absence."
In the case of Board of Commissioners of County of Marion v. Board of School Commissioners of City of Indianapolis, 130 Ind. App. 506, 166 N.E.2d 880, 884 (1960), the Indiana Appellate Court on page 515 stated:

“There are many principles of statutory interpretation stated in the opinions of our courts. The one principle which we believe should be considered before any others may be resorted to, however, is that a statute which is clear and unambiguous must be given its apparent or obvious meaning. . . .”

In examining the applicable portion of Acts 1945, ch. 231, as last amended by Acts 1965, ch. 215, as found in Burns IND. STAT. ANN., (1965 Supp.), § 28-4333, as cited by you and as set out hereinbefore, I find that its language is clear and unambiguous. In my opinion, the applicable language of the act is not subject to misinterpretation by those charged with administering its provisions. The first sentence means exactly what it says, that is, “that each teacher employed in the public schools of Indiana shall be entitled to at least two (2) days” each year for the designated reasons.

Taking the general purpose and scope of the act as a whole into consideration this provision must be interpreted to mean that in addition to the minimum salary which must be paid each teacher, he is entitled to receive at least two (2) days each year with pay to transact personal business and/or the conduct of personal or civic affairs. It is mandatory that the school corporation allow the teacher his regular pay while absent for the reasons stated in the provision. The second sentence of the provision states that “a written statement shall be submitted to the superintendent of schools setting forth the reason and necessity which shall be the cause of such absence.” (Emphasis added.) The first “shall” can only be interpreted to mean that the teacher must state the reasons for such absence in writing. If I may use an old and hackneyed phrase, “common sense” would dictate that in order for a school to function with a minimum of turmoil which would be caused in a school by the absence without notice of a teacher, the teacher should be required by reasonable rule and regulation to give prior notice that he is going to need a day or two “for the transaction of personal business and/or the
conduct of personal or civic affairs." This does not mean that a teacher should be required to serve two or three days nor even a 24 hour notice of his or her intended absence to transact personal business or attend personal civic affairs. It is conceivable that the situation which gives rise to the need for such absenteeism may be in the nature of an emergency, and the teacher may not have knowledge of the need for his or her absence until the morning that he or she cannot attend school. On the other hand, it may be necessary for a teacher to leave his or her school during the middle of a school day to attend to personal business or conduct civic affairs. Under both situations mentioned above, it would be impossible for the teacher to serve more than impromptu advance notice of his or her intended absence.

Concerning your third question, it has been held that the school trustees are required by statute to "take charge of the educational affairs of their respective townships, towns and cities" (Acts 1899, ch. 192, § 1, p. 424; 1901, ch. 224, § 1, p. 514, as found in Burns IND. STAT. ANN., § 28-2410), have "the power to make reasonable rules and regulations to that end" (Fertich v. Michener, 111 Ind. 472, 11 N.E. 605, 14 N.E. 68 (1887)), and that "the teacher is nothing more nor less than the employee of the trustees, subject in all things pertaining to the management of the school to their will and direction." (State ex rel. Horne v. Beil, 157 Ind. 25, 60 N.E. 672 (1901).)

More precisely, Acts 1965, ch. 307, § 202, as found in Burns IND. STAT. ANN., (1965 Supp.), § 28-6410 (17), dealing with specific powers of school corporations provides as follows:

"(17) To prepare, make, enforce, amend and/or repeal rules, regulations and procedures for the government and management of the schools, property, facilities and activities of the school corporation, its agents, employees and pupils and for the operation of its governing body, which rules, regulations and procedures may be designated by any appropriate title such as 'policy handbook,' 'by-laws,' 'rules and regulations'."
Such rules and regulations must be reasonable in scope and they cannot be so restrictive as to destroy the application of the statute itself. Rules and regulations may not enlarge upon organic provisions of the statute and can only implement same to make the statute operative.

*Blue v. Bleach*, 155 Ind. 121, 56 N.E. 89 (1900);  

Looking again at the plain language of the statute we note that “a written statement shall be submitted to the superintendent of schools setting forth the reason and necessity for the absence.” “It is apparent such reason and necessity” is to be “for the transaction of personal business and/or the conduct of personal or civic affairs.” What reasons or necessities may be classified as “personal business and/or the conduct of personal or civic affairs” is a matter to be determined by the individual teacher. The two (2) days absence with pay to conduct personal or civic affairs have been granted by the Legislature. The Legislature did not define personal business or civic affairs in this context. What is considered personal business and civic affairs by one group of teachers may not be considered so by another group of teachers. It is apparent that the Legislature intended that each teacher determine subjectively what is personal business and civic affairs for the purpose of the statute in question.

Thus in answer to your questions, it is my opinion that Acts 1945, ch. 231, as last amended by Acts 1965, ch. 215, as found in Burns IND. STAT. ANN., (1965 Supp.), § 28-4338, makes it mandatory that each school corporation grant each teacher who is subject to the teacher’s minimum wage law at least two (2) days leave with pay “for the transaction of personal business and/or the conduct of personal or civic affairs.” The governing body of the local school corporation may adopt reasonable rules and regulations implementing the administration of this provision in the act and such rules and regulations may provide that a prior notice of intention to be absent may be required of each teacher but no time limit within which the notice must be served may be imposed by such rule.
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All rules and regulations must be reasonable and within the purview of the Act and they may not deny what the Legislature said the teacher is entitled to. A decision as to what is the "personal business and/or the conduct of personal or civic affairs," should be left to the subjective determination of each teacher.

OFFICIAL OPINION NO. 66

November 23, 1965

Mr. Donald H. Sauer, Director
Department of Financial Institutions
1024 State Office Building
Indianapolis, Indiana

Dear Mr. Sauer:

This is in response to a request for an Official Opinion by your predecessor, Mr. Joe McCord, in answer to the following question:

"May a State chartered building and loan association invest the funds received by it in the 100% repurchase guaranty vendee accounts for sale to investors by the Veterans Administration?"

From information received from the Veterans Administration Regional Office in Indianapolis, Indiana, it appears that most of the so-called vendee accounts are in the form of real estate contracts which are available for sale to investors with a 100% repurchase guaranty by the Veterans Administration. In the selling of such accounts, the Veterans Administration would handle these transactions by one of three procedures:

1. Conversion of the contract to a mortgage by the VA and the assignment of mortgage, note and other instrument to the investor.

2. Assign the contract and deed the property to the investor.

3. Assign the contract to the investor and retain title to the property in the VA, with an agreement that the VA will deed the property to the