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(2) A raising of the salary to one and one-half (1½) times the base salary, *and*

(3) Then the county council *may* increase the salary of one and one-half (1½) the base salary by any amount not to exceed \$2,000.00 per year.

Therefore, it is my opinion, in answer to your question, that notwithstanding the fact that a duly elected county surveyor also be employed by the board of county commissioners to serve as a county highway engineer, such county surveyor is limited by the provisions of Burns' 49-1055 and 49-1062, *supra*, as to the total amount of salary which he may draw for *all* services.

OFFICIAL OPINION NO. 63

November 17, 1964

Mr. B. B. McDonald
State Examiner
State Board of Accounts
912 State Office Building
Indianapolis, Indiana

Dear Mr. McDonald:

This is in answer to your recent letter which raises the following questions:

- "1. Are the revenues from off-street parking facilities operated pursuant to Burns 48-8470 et seq. and 48-8491 et seq., where there are no tax funds or levies involved, subject to appropriation by the common council or town board respectively?
- "2. If your answer to question one is yes, is appropriation by the common council or town board sufficient or is approval of the State Board of Tax Commissioners also required?"

An examination of the statutes cited in your letter does not disclose any specific provisions relating to the expenditures

of revenues from off-street parking facilities in cities of 2nd, 3rd, 4th and 5th classes, or in towns, except the provision that contracts or agreements with any contractor or contractors for labor, material or equipment exceeding in amount the sum of \$1,000 shall be let and entered into under and pursuant to the provisions of the general law governing the letting of contracts by government agencies or towns. Since there is nothing specific in the section of the statutes mentioned, it is necessary to look elsewhere in the statutes to see if the revenues received are in any way controlled.

Acts of 1949, Ch. 28, Sec. 3, as amended and found in Burns' (1963 Repl.), Section 48-513 relates to the fees collected from parking meters in cities and towns. This section of the statute reads as follows:

"Said several cities and towns shall provide, by ordinance, that all license fees, when collected from such mechanical parking devices, shall be deposited with its clerk-treasurer, to the credit of such city or town but in a special fund, which said special fund shall be disbursed and paid out only under the orders and directions of the board of public works and safety or common council of said city, or board of trustees of said town, and for the following purposes only: (a) For the payment of the purchase price, rental fees and cost of installation of such mechanical parking devices; (b) For the payment of the cost of maintenance, operation, repair and all other incidental costs and expenses in the operation of said mechanical parking devices. Included in said incidental costs and expenses shall be the cost of clerk and bookkeeping expenses in the handling and keeping of records of all fees so collected and expended; and (c) For the payment of the cost of traffic signal devices used in said cities or towns and also repair and maintenance of any of the public streets and highways where said mechanical parking devices are in use, and all streets connected therewith in said city or town; and (d) For the purpose of acquiring by lease or purchase suitable land for off-street parking purposes; for the improvement and maintenance of such land for parking purposes;

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and for the purchase, installation and maintenance of mechanical parking devices on such land: Provided, That the city shall have the right to either operate such off-street parking facilities or shall have the right to lease such facilities.

“In any city of the fifth class in which there is a board of public works and safety, all funds received from mechanical parking devices and deposited in a special fund as herein provided shall be expended only upon specific appropriation made therefor by the common council of such city in the same manner as other public funds are appropriated by such council. The board of public works and safety shall prepare an estimate of the funds necessary for the operation of mechanical parking devices for the ensuing year at the regular time of making and filing budget estimates for other departments of the city; such estimates shall follow the same procedure as other department estimates in order to present the same to the common council of said city and such estimate shall be itemized as all other budget estimates. Any such appropriation made by the common council shall not be subject to review by either the county tax adjustment board or by the state board of tax commissioners, and the general laws with respect to appropriation of funds shall not be deemed to affect or modify the provisions of this act.

“The board of trustees of any town and the common council of any city of the fifth class in which there is no board of public works and safety shall have the right and authority to expend said special fund for the purposes above provided, without additional appropriation thereof.

“A warrant for any expenditure shall be drawn by the clerk-treasurer of such city or town upon a proper voucher of said board of public works and safety or board of trustees, which voucher shall be signed by the president or vice-president and the clerk of said boards, as is now required by law for other expenditures of city and town funds by the said board of pub-

lic works and safety or common council and boards of trustees. All moneys remaining in the city or town treasury to the credit of said special fund at the end of the calendar year, shall remain in said fund and shall not revert to the general funds of said city or town. Nothing herein contained shall prohibit the common council of any city or the board of trustees of any town from transferring, by ordinance, at the end of any calendar year, any balance in said special fund to the general funds of said city or town.

“The purchase or lease of any real estate or other facilities for off-street parking from the parking meter funds of any city of the fifth class, prior to the effective date of this amendatory act, is hereby legalized, and all said prior purchases or leases thereof made prior to the effective date of this amendatory act are hereby ratified, confirmed, legalized and declared valid.”

From the above law, it is apparent that the expenditures are limited as set forth in the first paragraph thereof, and, in answer to your second question, an appropriation is necessary but the same is not subject to review by the State Board of Tax Commissioners.

OFFICIAL OPINION NO. 64

November 18, 1964

Hon. Richard C. Bodine
State Representative
208 First National Bank Building
Mishawaka, Indiana

Dear Representative Bodine:

This is in response to your letter of October 20, 1964, wherein you request an Official Opinion. Your specific question is stated as follows:

“* * * There is a series of Statutes concerning unsafe building structures which commence with Burns Annotated Statute 48-6144 et seq., which provides for