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However, examinations of the Welfare Act of 1936 and the Official Rules and Regulations of the State Department of Public Welfare fail to disclose that either the Indiana State Department of Public Welfare or any of our several county departments of public welfare has ever been vested with the power to pay for legal services rendered to or on behalf of a welfare recipient. Neither have I been able to find such authority in any other act of the Legislature.

A department of public welfare, either state or county, cannot exceed its statutory power, for as said in the case of Boone County, REMC, *et al.* v. Public Service Commission *et al.* (1958), 129 Ind. App. 175, 186, 155 N. E. (2d) 149, 155:

“It is a fundamental principle of law that every administrative agency in the state of Indiana must find the source of its authority in the statute conferring it, and it can only exercise the power conferred in conformity with the statute.”

Therefore, it is my opinion that the expense of legal aid rendered to or on behalf of public assistance recipients may not be paid from public welfare funds.

OFFICIAL OPINION NO. 30

April 19, 1962

Hon. Nelson G. Grills
State Senator
802 Board of Trade Building
Indianapolis 4, Indiana

Dear Senator Grills:

This is in reply to your recent letter requesting an Official Opinion with respect to the salary payable to a county surveyor registered by the Indiana State Board of Registration for Professional Engineers and Land Surveyors. Your letter reads in part as follows:

“A number of County Surveyors in Indiana were not registered as professional land surveyors at the time Chapter 277 was passed. After the passage of this act,

these County Surveyors submitted to the State Board of Registration for Professional Engineers and Land Surveyors, an application for such registration. These applications have been accepted and these County Surveyors are now registered as professional land surveyors. It is the position of these surveyors that under Section 10 of Chapter 319 of the Acts of 1957 they become entitled to the one-half increase in their base salary upon their becoming registered under the Indiana Board of Registration for Engineers and Land Surveyors. There appears to me to be no question but what their position is correct. However, several of the auditors of the counties in which these surveyors are serving have requested that I obtain from the Attorney General an opinion upon the question. I would appreciate your examining this matter and providing an opinion."

As your letter indicates, the Acts of 1961, Ch. 277, Sec. 13, as found in Burns' (1961 Repl.), Section 63-1547, provides that certain county surveyors may secure registration as a professional land surveyor. Burns' 63-1547, *supra*, reads in part as follows:

"An elected or duly appointed county surveyor who is now serving in the office of county surveyor may secure registration as a professional land surveyor, after he has been in office continuously for five (5) years, by submitting to the state board of registration for professional engineers and land surveyors an application for such registration * * *"

In accordance with the above statutory provision, those county surveyors meeting the qualifications established by the Legislature will, in some instances, obtain certificates of registration as professional land surveyors.

The salary of a county surveyor is provided for by the Acts of 1957, Ch. 319, Sec. 10, as found in Burns' (1961 Supp.), Section 49-1062, which reads as follows:

"The salary for a county surveyor who is not a registered engineer shall be: Class 1, \$6,600.00; Class 2,

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\$5,400.00; Class 3, \$4,600.00; Class 4, \$4,000.00; Class 5, \$3,600.00; Class 6, \$3,200.00; Class 7, \$2,800.00; Class 8, \$2,600.00; Class 9, \$2,400.00; Class 10, \$2,200.00; Class 11, \$2,000.00; Class 12, \$1,800.00; Class 13, \$1,600.00.

“If the county surveyor is registered under the Indiana board of registration for engineers and land surveyors, then the salary shall be one and one-half [$1\frac{1}{2}$] times the base salary as set out above * * *”

Burns' 49-1062, *supra*, was under consideration in 1961 O. A. G., page 386, No. 61. At page 388 of this Opinion it is stated:

“* * * Since the Indiana Board of Registration for Engineers and Land Surveyors issues *certificates of registration* only to two distinct groups, i.e., professional engineers and professional land surveyors, it is only an individual so *registered* that is eligible to receive one and one-half times the base salary established in the salary act.”

Burns' 63-1547, *supra*, currently provides a method by which certain county surveyors may become registered as professional land surveyors by the State Board of Registration for Professional Engineers and Land Surveyors. Burns' 49-1062, *supra*, provides that the county surveyor who is so registered shall receive one and one-half ($1\frac{1}{2}$) times the base salary provided for in the act. When these two acts are considered together, it is obvious that a county surveyor registered pursuant to Burns' 63-1547, *supra*, is entitled to one and one-half ($1\frac{1}{2}$) times the base salary provided for in Burns' 49-1062, *supra*.

It is therefore my opinion that a county surveyor who has secured registration from the State Board of Registration for Professional Engineers and Land Surveyors in accordance with Burns' 63-1547, *supra*, is registered within the meaning of Burns' 49-1062, *supra*, and is entitled to the salary increase provided therein.