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In reply to your second question, it is my opinion that it must be answered in the affirmative. It is to be noted that the Acts of 1935, Ch. 148, Sec. 15, as amended and as found in Burns' (1951 Repl.), Section 63-1531, *supra*, in part provides:

“The board shall issue a certificate of registration,
* * * to *any* applicant who, in the opinion of the board,
has satisfactorily met all requirements of this act.”
(Our emphasis)

It is clear, therefore, that if a county surveyor is a mechanical, electrical or chemical engineer who has satisfactorily met the requirements of the Act, in the opinion of the Board, and has been issued a certificate of registration authorizing him to practice professional engineering, he is entitled without further qualifications to the \$2.00 per mile provision for each mile of active court drains and ditches as set out in Acts of 1957, Ch. 319, Sec. 10, *supra*.

In summary, it is my opinion that only the county surveyor who is registered under the Indiana Board of Registration for Engineers and Land Surveyors as a registered professional engineer is entitled to the \$2.00 per mile provision for each mile of active court drains and ditches, and that said provision would also cover a mechanical, electrical or chemical engineer if he is licensed as a professional engineer and holds a certificate of registration issued by the Indiana Board of Registration for Engineers and Land Surveyors.

OFFICIAL OPINION NO. 62

November 29, 1961

Mr. Allan Rachles, Secretary
Reciprocity Commission
Public Service Commission of Indiana
901 State Office Building
Indianapolis 4, Indiana

Dear Mr. Rachles:

This is in response to your request for an Official Opinion in answer to the question presented by you, which reads as follows:

“I would like to have an official opinion as to whether or not Burns’ 47-1244 and 47-1245 pertaining to fees and charges of the Public Service Commission with respect to motor carriers are the proper subject of reciprocal agreements. In other words, does the Reciprocity Commission have the authority under Burns’ 47-202 to waive Public Service Commission fees provided for in 47-1244 and 47-1245 even though these fees were set up to provide operating revenue for the Public Service Commission?”

In order to fully appreciate the question presented and to arrive at a proper solution, it is necessary to examine the function of the Reciprocity Commission and its membership.

The Indiana Reciprocity Commission was established by the Acts of 1945, Ch. 178, as amended, as found in Burns’ (1952 Repl.), Section 47-201 *et seq.* Section 1 of the original act was amended by the Acts of 1957, Ch. 6, Sec. 1, as found in Burns’ (1961 Supp.), Section 47-201, and reads as follows:

“There is hereby created a reciprocity commission of the state of Indiana, to consist of five [5] members. The governor, commissioner of the bureau of motor vehicles, chairman of the public service commission, superintendent of state police department and chairman of the highway department are hereby made *ex officio* members and commissioners of said commission. It shall be the duty of said commission, as occasion may arise, to confer with officials of other states, commonwealths and the District of Columbia, for the purpose of agreeing upon, establishing and maintaining fair, equitable and satisfactory reciprocity arrangements and plans for the movement of motor vehicles from, to and between the different states, commonwealths and the District of Columbia of the United States and regulating the use of the same on the roads and highways of the state of Indiana.”

It is significant that the members of the Reciprocity Commission are also members of the governmental agencies concerned most with the work of the Reciprocity Commission.

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The Chairman of the Public Service Commission is one *ex officio* member, as is the Commissioner of Motor Vehicles.

Furthermore, the Acts of 1949, Ch. 117, set out in the note to Burns' 47-202, *supra*, legalizing reciprocity agreements, recognized that the affected State Agencies should comply with such reciprocity agreements by stating, in part, as follows:

“* * * all actions taken or acts performed by any board, bureau, or commission, department, division, agency or authority of the state of Indiana in accordance with the terms of such reciprocal contracts or agreements and in performance of the terms thereof are hereby fully confirmed, ratified, validated and legalized. * * *”

The authority of the Reciprocity Commission is set out in the Acts of 1945, *supra*, as found in Burns' (1952 Repl.), Section 47-202, which section reads as follows:

“The commission hereby created is authorized and empowered to engage in any conference with officials of any or all other states, commonwealths or the District of Columbia, that in its judgment would be in the interest of the state of Indiana and the citizens thereof, and said commission is hereby empowered to enter into such reciprocal contracts and agreements as the commission may deem proper and expedient, fair and equitable to this state or the citizens thereof, with the proper authorities of adjoining states, or any or all of the states, commonwealths, and the District of Columbia, regulating the use of motor vehicles on the highways of this state, belonging to and owned or operated on such highways by citizens of such other states, commonwealths, or the District of Columbia, in consideration of the granting by such other state, commonwealth, or District of Columbia to this state or to the citizens thereof, a like privilege or privileges while operating a motor vehicle in such other state, commonwealth, or District of Columbia. They are likewise empowered and authorized to confer, advise with, and enter into such reciprocal contracts and agreements as they may deem proper, expedient, fair and equitable to this state

or the citizens thereof with legislative bodies and commissions, boards or officials duly authorized and empowered by the law of any other state, commonwealth, or District of Columbia, with a view to promoting and establishing such fair, just, equitable and reciprocal agreements for the licensing, movement, taxing, registration, regulation and fees to be charged therefor of motor vehicles owned and licensed in this state and operated on the highways of some other state, commonwealth or District of Columbia, and those owned and licensed in such other state, commonwealth or District of Columbia and operated on the highways of this state. If such other state, commonwealth or the District of Columbia has no commission or official authorized to enter into such reciprocal agreement, but does have in force a law or statute which contains a reciprocal provision for the benefit of the citizens of this state, then the commission hereby created, if it be of the opinion that it would be beneficial to this state or the citizens thereof is authorized to consent to the provisions of such reciprocal law or statute, and to notify the proper authority of such other state, commonwealth, or District of Columbia thereof.”

Briefly, this statute gives the Reciprocity Commission authority to:

1. Regulate by agreement the use of motor vehicles on the highways of this state by operators of foreign states, when like privileges are extended to operators of this state; and,
2. To enter into agreements for the licensing, movement, taxing, registration, regulation, and fees to be charged of motor vehicle operators registered in this state and foreign states.

The filing fees and registration fees to be paid to the Public Service Commission are authorized by the Acts of 1935, Ch. 287, Sec. 34, as amended and found in Burns' (1961 Supp.), Section 47-1244 and by the Acts of 1935, Ch. 287, Sec. 35, as found in Burns' (1952 Repl.), Section 47-1245. The fees provided for in these sections are to be paid in to the Treasurer of the State and into an account known as the “Motor-Vehicle

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Account" of the general fund in accordance with the Acts of 1935, Ch. 287, Sec. 38, as found in Burns' (1952 Repl.), Section 47-1248. The appropriation for the Motor Vehicles Division of the Public Service Commission is taken from this Motor-Vehicle Account pursuant to the Acts of 1961, Ch. 298, Sec. 2, page 769. The purpose of these fees according to the above acts is to defray the expenses incurred by the Motor Vehicles Division of the Public Service Commission and the State Police in the administration, regulation and enforcement of the law.

The authority given the Reciprocity Commission by Burns' 47-202 *supra*, specifically authorizes that Commission to enter into reciprocal agreements with other states regarding fees to be charged to motor vehicle operators of this state and foreign states. There is no indication that the term fees in this statute is meant in any other way than the usual definition of the term or that the fees charged by the Public Service Commission are to be excluded from the agreements which the Reciprocity Commission is authorized to consummate.

In view of the statutory authority given to the Reciprocity Commission, because of the language of such authority and because of the nature of the fees charged by the Public Service Commission, it is my opinion that the Public Service Commission fees provided for in Burns' 47-1244, *supra*, and Burns' 47-1245, *supra*, are the proper subject of reciprocal agreements as provided for in Burns' 47-202, *supra*.

OFFICIAL OPINION NO. 63

November 30, 1961

Mr. B. B. McDonald
State Examiner
Indiana State Board of Accounts
912 Indiana State Office Building
Indianapolis 4, Indiana

Dear Mr. McDonald:

This is in response to your request for an Official Opinion. Your letter reads as follows: