

mented with funds available under Burns' 9-3219, as amended, if an order is first obtained from a court of proper jurisdiction. It is my further opinion that the total supplemented award may not exceed \$2.00 per day unless the court shall by special order allow an increased amount for a child having unusual needs and requiring special care, or shall make an additional allowance for unusual expense in connection with the care of any such child.

OFFICIAL OPINION NO. 67

December 5, 1961

Honorable Alice C. Whitecotton
Clerk, Supreme and Appellate Courts
217 State House
Indianapolis, Indiana

Dear Mrs. Whitecotton:

The letter received by my office wherein you request an Official Opinion relative to your salary reads as follows:

"I would appreciate your official opinion in answer to a question which has been raised in connection with Chapter 128, Section 1 of the Acts, 1961.

"Chapter 128, Section 1 provides that the Clerk of the Supreme and Appellate Courts salary shall be \$9,000.00. It also provides that increases shall be effective immediately following the term for which they were elected in the general election held November 8th, 1960.

"I was elected Clerk of the Supreme and Appellate Courts of the State of Indiana in November, 1958 and am at present the holder of said office.

"I would appreciate an official interpretation of the following:

- "1. What is the present salary of the Clerk of the Supreme and Appellate Courts of the State of Indiana?

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“2. On what date did, or does, the salary increase take effect in respect to the office of the Clerk of the Supreme and Appellate Courts?”

Acts of 1961, Ch. 128, Sec. 1, as found in Burns' (1961 Supp.), Section 49-901a, provides for the salaries of various elected state officials, including the salary of the Clerk of the Supreme and Appellate Courts of the State of Indiana. Section 1 of this Act sets out all the salaries covered by the statute and then contains the following proviso:

“* * * Provided, however, That the increase above provided for the governor shall be effective on the second Monday of January, 1965, and the increases above provided for all other state elected officials shall be effective immediately following the term for which they were elected in the general election held November 8, 1960; * * *.” (Our emphasis)

As your letter indicates, and as the official records of the state show, the Clerk of the Supreme and Appellate Courts of the State of Indiana was *not* elected in the “* * * general election held November 8, 1960 * * *.”

At the time the Legislature passed Acts of 1961, Ch. 128, it clearly expressed its intent with respect to the effective date of the salary increases for certain officials. This was done by stating when the increase would be effective for the Governor and those officials elected on November 8, 1960. There is no indication that the Legislature intended this proviso to extend by implication to officials not specifically covered by the clear and expressed limiting provisions of the act including reference to election on November 8, 1960. If the Legislature had intended the limitation to cover all mentioned officials, it could have so provided by appropriate language indicating that no increase would be effective for any official presently in office.

It has already been shown that the limitation on the effective date of salary increases for certain enumerated state officials is expressed in a proviso in this act. A proviso in a statute is meant to limit and qualify the preceding language in the act and when it is plain and unambiguous, it should be given a literal interpretation.

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McDaniels v. McDaniels (1945), 116 Ind. App. 322,
62 N. E. (2d) 876.

It is a well recognized rule of statutory construction that the enumeration of certain things in a statute implies the exclusion of all others.

Shupe v. Bell *et al.* (1957), 127 Ind. App. 292, 141
N. E. (2d) 351.

The proviso in Burns' 49-901a, *supra*, can only limit or restrict the effective date of the salary increase to all those officials included by name or by reference to date of election. By so specifying the officials whose salary increase is postponed, the Legislature excluded from the proviso any officials not included. The office of the Clerk of the Supreme and Appellate Courts is not covered by the proviso and the rules above announced are therefore applicable. In reading Burns' 49-901a, *supra*, it is clear that the Legislature specifically granted the Clerk of the Supreme and Appellate Courts a salary of \$9,000 per year and there is no further limitation in the statute respecting that specific salary.

Therefore, in answer to your first question, the present salary for the Clerk of the Supreme and Appellate Courts of the State of Indiana is the salary provided in Acts of 1961, Ch. 128, Sec. 1, which is nine thousand dollars (\$9,000.00) per year.

This act did not contain an emergency clause and it therefore became law pursuant to Art. 4, Sec. 28 of the Indiana Constitution which provides that statutes without emergency clauses become law when published and circulated to the several counties of the state. With respect to the Acts of 1961, this occurred on July 6, 1961.

Therefore, in answer to your second question, the salary of the Clerk of the Supreme and Appellate Courts of the State of Indiana provided for by the Acts of 1961, Ch. 128, Sec. 1, became effective on and after July 6, 1961.