"A fund may be denominated a deposit or accumulation of resources from which supplies are drawn, out of which expenses are provided, or which may be available for the payment of debts or the discharge of liabilities. The assets of an estate constitute a fund in the hands of the executor or administrator, which, in certain cases, he may be required to bring into court. There are, however, many kinds of assets which it would be both unsuitable and impracticable to bring into court. * * *" (Our emphasis)

Jewett et al. v. The State ex rel. Harrod (1883), 94 Ind. 549, 552.

It appears that the only limitation intended was the limitation to money, under the control of the State Board of Finance or the governing body of any department, board, commission, utility or unit of government within the state, which money is not required for use prior to the maturity date of the obligations which are proposed to be purchased or received for investment purposes.

In conclusion, therefore, I am of the opinion that the money referred to in each of your two questions can be invested pursuant to Burns' 61-677, supra.

OFFICIAL OPINION NO. 51

November 22, 1957

Mr. William C. Stalnaker, Director
Indiana Employment Security Division
141 South Meridian Street
Indianapolis, Indiana

Dear Mr. Stalnaker:

Your letter of October 29, 1957, has been received and presents the following factual information.

Your Division has, for the past twenty years, by means of classified advertisements in local newspapers, disseminated information to the general public concerning job opportunities, all of which was pursuant to the provisions of the Indiana Employment Security Act. However, Acts of 1957, Ch. 16,
Sec. 1, as found in Burns' (1957 Supp.), Section 49-701, pur-
ports to establish a standard rate for all advertising which any
public official or governmental agent is required by law to
publish or orders published in a newspaper.

The State Auditor has now raised the question as to whether
the above described classified advertising must be paid at the
rate provided for in Burns' 49-701, supra, while on the other
hand, you have been informed by the newspapers that they will
not run the type of help wanted advertisements which you
have been using in the past as classified advertisements and
receive payment on the legal advertising rate provided in
Burns' 49-701, supra.

At the present time you have seven hundred dollars [$700]
in unpaid claims which the State Auditor's office has declined
to honor, which claims represent payments for classified ad-
vertisements in newspapers made since the passage of the

You ask the two following questions based on the above
facts:

"(1) The $700 now due the various newspapers on
want ads in the State of Indiana were placed with said
newspapers with the understanding that the want ads
would be paid on the basis of classified advertising
rates. Can we compel said newspapers to accept the
lesser rate based on legal advertising rates?

"(2) We would like to have the opinion of your
office interpreting your understanding of the law set
forth in Section 1, Chapter 16, Acts of 1957, in that
do the words 'or orders published' change want ads
which this Division has been using for the past twenty
years from classified advertising to legal advertising
and subject to legal advertising rates?"

Before answering your questions, it is well to note the
authority by which your Division uses classified advertising
in the performance of its duties. In the Acts of 1947, Ch. 208,
Sec. 2401, as found in Burns' (1951 Repl.), Section 52-1548,
the State of Indiana accepted the provisions of the Federal
Employment Services Act (29 U. S. C. A. § 49 et seq.), by
which acceptance the State of Indiana committed itself to the
observation and compliance with the requirements of said act, including the burden of publishing and disseminating information concerning job opportunities. In addition, the Indiana Employment Security Board is expressly directed to promote re-employment of unemployed workers throughout the State in every way feasible. [See Acts of 1947, Ch. 208, Sec. 2005, as found in Burns' (1951 Repl.), Section 52-1544.]

I will first examine the question presented in your question numbered 2, because if the classified ads which your Division is attempting to use do not come within the provisions of Burns' 49-701, supra, question one will also be answered.

Burns' 49-701, supra, amended Sec. 1 of the Acts of 1927, Ch. 96, which is commonly known as the Legal Advertising Act.

Burns' 49-701, supra, reads as follows:

"The cost of all advertising, which any duly elected or duly appointed public official or governmental agency is required by law to have published, or orders published, for which the compensation to the newspapers publishing such advertising is drawn from the public treasury of the governmental unit concerned therewith, shall be charged to and collected from the proper fund of the public treasury and paid over to the newspaper and/or newspapers publishing such advertising, after proof of publication and claim for payment has been filed.

"The compensation for the publishing of such advertising shall be by the line and shall be computed at the rate of one dollar and fifty cents [$1.50] per square of two hundred and fifty [250] ems for the first insertion and seventy-five cents [75¢] per such square for each additional insertion required: Provided, That an additional charge of fifty per cent [50%] shall be allowed for the publication of all such legal advertising containing rule and figure work.

"All legal advertisements shall be set in solid type not larger than the type used in the regular reading matter of the newspaper, without any leads or other devices for increasing space. All such advertisements
shall be headed by no more than two [2] lines, neither of which shall total more than four [4] solid lines of the type in which the body of the advertisement is set.

"Each newspaper publishing legal advertising shall submit proof of publication and claim for payment in duplicate on each such legal advertisement published. For each additional proof of publication required by any public official, a charge of fifty cents [50¢] per copy shall be allowed the newspaper or newspapers furnishing such proof of publication." (Our emphasis)

As I have emphasized above, the Legislature has interchanged the terms "advertising" and "legal advertising" throughout the above section. There is no definition section in the 1957 Act and neither was there such a section in the Acts of 1927. It is therefore necessary to apply the rule of statutory construction in order to determine whether the words advertising and legal advertising as used in the act include the classified ads in question.

"Where the legislature has not defined words used in the act, the court must then determine as best it can the meaning of the language in accordance with the legislative intent so as to prevent absurdities and to advance justice."

Sutherland, Statutory Construction, 3rd Ed., Vol. 2, Sec. 4814, p. 359.

Section 2 of the Acts of 1927, supra, as found in Burns' (1951 Repl.), Section 49-702, was not amended by the Acts of 1957, and reads as follows:

"All publications, except that of annual reports of township trustees, school boards, boards of county commissioners and civil cities and towns (which publications shall be made one time only), shall be published as now required by law, unless otherwise provided for in this act, except that no publication shall be made fewer than two [2] insertions, one [1] week apart. In case any officer charged with the duty of publishing any notice required by law shall be unable to procure such advertisement at the price herein fixed, it shall
be sufficient for him to post up such written or printed notices as the law requires, and such advertisement in newspapers shall be dispensed with.” (Our emphasis)

As noted above, this section requires that no publication is to be made fewer than two insertions, one week apart. It is apparent that this section could not be applied to a help wanted ad for the reason that if the job opportunities in said ad were filled after the first insertion in the newspaper, it would be a useless act to require the ad to be run the following week.

It has been held many times by our Supreme Court that statutes will be construed in the most beneficial way which their language will permit in order to prevent absurdities, hardship or injustice.

Lost Creek School Tp., Vigo County v. York (1939), 215 Ind. 636, 21 N. E. (2d) 58;

Helms v. American Security Co. of Indiana (1939), 216 Ind. 1, 22 N. E. (2d) 822.

Therefore, I must conclude that although the terms “advertising” and “legal advertising” in Burns’ 49-701, supra, were not defined, it is apparent from a reading of the Legal Advertising Act as a whole that the Legislature did not intend to include the type of classified advertisements (help wanted ads) which your department has been using within the purview of the Legal Advertising Act.

In answer to your question number 1, it is my opinion that your help wanted ads may be placed with newspapers on the basis of classified rates and not on the rate of legal advertising established in Acts of 1957, Ch. 16, Sec. 1, supra. In answer to your question number 2, it is my opinion that the language in the Acts of 1957, Ch. 16, Sec. 1, does not bring your classified advertising within the provisions of the Legal Advertising Act and therefore, your advertising is not subject to the legal advertising rates.