has only such powers as are specifically delegated to it by law, and such other powers as may be necessarily incident to powers expressly granted. Unless a grant of power and authority can be found in the statute, it must be concluded that there is none.

1953 O. A. G., page 478, No. 103;
1953 O. A. G., page 470, No. 101;
Chicago &c. E. I. Ry. Co. v. Public Service Comm. et al. (1943), 221 Ind. 592, 49 N. E. (2d) 341;

There is no statutory provision providing for review for such purpose of a teacher's retirement account when the member reaches the age of eligibility for receiving social security benefits. Therefore, it is my opinion that the Indiana State Teachers' Retirement Fund does not have authority later to review, for such purpose, the account of a teacher who effected an early retirement from service and who did not have sufficient social security coverage at the time of retirement to be eligible for social security benefits when reaching the age of eligibility to draw such benefits. The benefits to which a teacher is entitled from the Teachers' Retirement Fund should be determined as of the date of his retirement from active service, and your question is accordingly answered in the negative.

OFFICIAL OPINION NO. 53

December 4, 1957

Mr. Joe McCord, Director
Department of Financial Institutions
Room 410, State House
Indianapolis, Indiana

Dear Mr. McCord:

This is in reply to your request for my Official Opinion in answer to the following question:

"Does the Department have the authority under the Indiana Industrial Loan and Investment Act to revoke
or cancel a certificate of authority which was issued to
an applicant in accordance with the law in 1951 and
where no business has been transacted under the said
act?"

The only express provision concerning a certificate of
authority contained in the Industrial Loan and Investment
Act is in the Acts of 1935, Ch. 181, Sec. 4, as amended, as
found in Burns' (1957 Supp.), Section 18-3104, as follows:

"When authorized by the department in the manner
prescribed by sections 25, 26, 27, 28 and 29 of the
Indiana Financial Institutions Act and any amend-
ments thereof, any domestic corporation now or here-
after organized under the general corporation laws of
the state of Indiana may engage in business as an
industrial loan and investment company subject to the
limitations and restrictions hereinafter set forth. The
department may issue a certificate to any such corpo-
ration when authorized by said department to engage
in business under this act if the department determines
after a hearing that a public necessity exists in the
particular city for the type of industrial loan and in-
vestment company for which application is made: pro-
vided, however, that no such certificate may be issued
to engage in business under this act in a city having a
population of less than 30,000 inhabitants according to
the last preceding United States census, and with
respect to cities having a population of 30,000 or more
inhabitants, not more than one certificate shall be issued
for each 30,000 inhabitants of such city. Such certifi-
cates shall state whether such corporation is empowered
and authorized to issue, negotiate and sell certificates
of investment or indebtedness, or whether it shall not
be so empowered and authorized and, if not, shall pro-
vide that such corporation shall do business under this
act only as limited and restricted by section 20A hereof.
No corporation holding any such certificate shall engage
in business or exercise any powers, rights or privileges
as an industrial loan and investment company in any
manner other than that provided in said certificate."

It is my opinion that the Legislature’s silence in respect to
the life of the certificate or a review of its necessity, evidences
a legislative intent to issue an irrevocable certificate of authority unless the corporation fails to comply with an express statutory provision of the Industrial Loan and Investment Act.

In order to make a further examination of the intent of the Legislature, it is necessary to review the whole of the Industrial Loan and Investment Act and such provisions of the Indiana Financial Institutions Act as are applicable.

It is to be noted that the above-quoted statutory provision expressly incorporates, by reference, only Sections 25, 26, 27, 28 and 29 of the Indiana Financial Institutions Act, Acts of 1933, Ch. 40, as amended, and as found in Burns’ (1950 Repl.), Sections 18-222 through 18-226. These sections of the Indiana Financial Institutions Act concern the initial application for certificate of authority and contain no provision concerning revocation.

The regulatory power over Industrial Loan and Investment Companies is conferred upon the Department of Financial Institutions by the Acts of 1935, Ch. 181, Sec. 15, as found in Burns’ (1950 Repl.), Section 18-3115:

"The department shall have charge of the organization, supervision, regulation, examination and liquidation of all industrial loan and investment companies to which this act is applicable, to the same extent and in the same manner as is provided for financial institutions in the Indiana Financial Institutions Act, and for such purpose any company to which this act is applicable shall be deemed to be and shall be a financial institution within the meaning of the term as used in Part 2 of the Indiana Financial Institutions Act. The Department shall be subject to the same limitations with reference to the disclosure of information as is provided in section 32 of the Indiana Financial Institutions Act."

In addition, the Industrial Loan and Investment Act provides the procedure for the adoption of rules and regulations applicable to such companies and delineates the specific matters to be the subject of rules and regulations, Acts of 1935, Ch. 181, Sec. 17, as amended, as found in Burns’ (1950 Repl.), Section 18-3117.
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It will be noted that the rule and regulation authority granted in said section makes no provision for the revocation of a certificate of authority because of non-use.

There is, however, one proviso in the Indiana Financial Institutions Act (a separate Act) which applies to the question of non-use, relating to financial institutions as defined by said Act. The Acts of 1933, Ch. 40, Sec. 353, as found in Burns' (1950 Repl.), Section 18-2402, provides as follows:

"If any financial institution, whether organized under the provisions of this act, or of any law enacted prior to the taking effect of this act, does not complete its organization and proceed with the transaction of business, pursuant to the provisions of the act under which it is organized, within a period of six (6) months after its articles of incorporation shall have been approved and filed, the approval so given shall be deemed to be revoked and such articles of incorporation shall be null and void."

This proviso does not deal with the revocation of a certificate of authority and it is my opinion that this provision is not incorporated by reference within the Industrial Loan and Investment Act by statutory provision, or otherwise. This provision deals specifically with financial institutions organized under the Indiana Financial Institutions Act and those organized under banking laws in force prior to its enactment. An Industrial Loan and Investment Company is not organized under the Indiana Financial Institutions Act or any prior banking law, but is organized under the general corporation law.

As there is no express authority for revocation of a certificate of authority of Industrial Loan and Investment Companies for non-use, it is imperative that we consider the question of implied authority.

"It is clearly the law that public officers may exercise only such powers as are expressly authorized by statute."

1954 O. A. G., page 22, No. 8 and cases there cited, which are as follows:
1957 O. A. G.

State ex rel. Workman v. Goldthait (1909), 172 Ind. 210, 216, 217, 87 N. E. 133;

State ex rel. Bingham v. Home Brewing Co. (1914), 182 Ind. 75, 91, 105 N. E. 909;

Department of Insurance v. Church Members Relief Assn. (1940), 217 Ind. 58, 60, 26 N. E. (2d) 51.

As pointed out in the 1954 O. A. G., supra:

"An exception applies to the above general rule only where certain incidental powers are implied for the purpose of carrying out the express powers given a public officer."

No such inferred powers for revocation of a certificate of authority for non-use are granted by any express provision of this Act.

In view of the foregoing, my answer to your question is that there is no express or implied statutory authority for revocation of a certificate of authority of such companies solely because of non-use.

OFFICIAL OPINION NO. 54

December 5, 1957

State Board of Medical Registration and Examination
Room 538, K. of P. Building
Indianapolis 4, Indiana

Dear Gentlemen:

Your letter of November 15, 1957, has been received and reads as follows:

"Pursuant to general discussion in Executive Session on November 6, the Board of Medical Registration in Executive Session on that date directed the writer to request an opinion from you, official or unofficial, regarding the following specific question relating to the Physical Therapy Law: