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which is the lowest and best bid and is empowered to reject any and all bids.

(3) The trustee may not accept any bids which have been rejected by the advisory board. However, the trustee may determine which, if any, of the bids not rejected by the advisory board are to be accepted by him and he need not accept any bid if, in his opinion, it is not the lowest and best.

I hope the foregoing has fully answered your question.

OFFICIAL OPINION NO. 19

April 26, 1956

Mr. W. Rowland Allen, Chairman
Commission on Alcoholism
1315 West 10th Street
Indianapolis 7, Indiana

Dear Mr. Allen:

This is in reply to your request for an Official Opinion which reads as follows:

"An official opinion is requested as to an interpretation of Chapter 335, Acts of 1955 as is found in Burns', 12-816 C. P. S. (1942 Repl.), and Section 15, Chapter 194, Acts of 1953 as is found in Burns', 24-4415 relating to the following:

"1. In the absence of a repealing section in Chapter 335, Acts of 1955, is Section 15 of Chapter 194, Acts of 1953, repealed by implication?

"2. Must deposits of monies, received pursuant to the terms of Chapter 335, Acts of 1955, when deposited in the enforcement fund of the Alcoholic Beverage Commission, be earmarked solely for use by the Commission on Alcoholism for the purpose of Administering the provisions of Chapter 194 of the Acts of 1953?

"3. If the answer to question No. 2 is 'yes,' does the Commission on Alcoholism have the right to draw upon funds, collected under the provisions of Chapter 335, of the Acts of 1955 and available under and pursuant to

the terms of Section 15, of Chapter 194, of the Acts of 1953, and unappropriated?"

The Acts of 1953, Ch. 194, Sec. 15, as found in Burns' Indiana Statutes (1950 Repl., 1955 Supp.), Section 22-4415, provides as follows:

"The commission may, with the approval of the governor and the state budget committee, draw upon the administration and enforcement fund of the alcoholic beverage commission as provided for in section 7, Acts of 1941, chapter 237 for such funds as may be necessary for the administration of this act, including the expenses of said commission, the securing of scientific advice, reimbursement of court costs, reimbursement of service fees to state institutions to which alcoholics are admitted or committed, employment of expert care in the handling and rehabilitation of alcoholics and the furnishing and equipment of special rooms at state institutions which may be selected by said commission for the treatment of alcoholics, provided, that no such funds shall be transferred to said commission until all proper expenses of the alcoholic beverage commission shall have been provided for, and, provided further any surplus remaining in the said administration and enforcement fund shall never be reduced below two hundred and fifty thousand dollars [\$250,000]."

The 1953 session of the General Assembly, which created the commission on alcoholism, did not appropriate any monies to said commission but only authorized the commission on alcoholism to draw upon the administration and enforcement fund of the alcoholic beverage commission, which funds consist of appropriated monies; see Acts of 1941, Ch. 237, Sec. 7, as found in Burns' Indiana Statutes (1942 Repl.), Section 12-428. Acts of 1955, Ch. 335, Sec. 1, as found in Burns' Indiana Statutes (1955 Supp.), Section 12-816 provides as follows:

"A fee of thirty dollars [\$30.00] shall be charged for the issuance of any alcoholic beverage permit issued to retailers and dealers, which fee shall be in addition to any fee now charged under and by virtue of the provisions of chapter 226 of the Acts of 1935 as the same has

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been amended: Provided, however, That holders of two [2] or three [3] way permits shall be charged only one such fee. All money realized from the collection of such fees shall be deposited in the enforcement fund of the Indiana Alcoholic Beverage Commission to be used for the purpose of administering the provisions of chapter 194 of the Acts of 1953, which created the commission on alcoholism or to be used for the purpose of administering the provisions of any law which hereafter creates a successor to the commission on alcoholism."

Generally speaking, implied repeals are only recognized and upheld when the later act is so repugnant to the earlier as to render the repugnancy or conflict between them irreconcilable and a court will always, if possible, adopt that construction which, under the particular circumstances in a given case, will permit both laws to stand and be operative; see Freyermuth v. State *ex rel.* Burns (1936), 210 Ind. 235, 2 N. E. (2d) 399.

In addition to this, in construing statutes a court will look to the entire statutory structure upon the subject involved for the purpose of ascertaining the legislative intent; see Rosenbloom v. Hutchins (1944), 222 Ind. 590, 55 N. E. (2d) 315. Therefore, I must also consider the 1955 General Appropriation Act, which is the Acts of 1955, Ch. 303. Section 2d thereof, at pages 899 to 900 of the Acts of 1955 provides, in part, as follows:

"That for the conduct of the services of the several State agencies under the independent funds, the following sums are hereby appropriated for the periods of time herein designated and from the funds designated
* * *

"FOR THE COMMISSION ON ALCOHOLISM

Personal Service	\$46,140	\$46,980
All Other Operating Expense.....	81,015	81,015
Equipment	300	

**"FOR THE COMMISSION ON ALCOHOLISM
NASH REHABILITATION CENTER**

Personal Service	\$25,660	\$26,740
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All Other Operating Expense.....	16,500	16,500
Equipment	300	300

“PROVIDED, That the amounts expended from the appropriations herein made for the Commission on Alcoholism as provided for in Section 15, Chapter 194, of the Acts of 1953, shall be paid from the Alcoholic Beverage Commission fund designated as the Enforcement Fund;

“PROVIDED FURTHER, That no such funds shall be transferred to said commission until all proper expenses of the Alcoholic Beverage Commission shall have been provided for; and, PROVIDED FURTHER, Any surplus remaining in the said administration and enforcement fund shall never be reduced below two hundred and fifty thousand dollars (\$250,000).”

Considering all three of these statutes together, I am of the opinion that the Acts of 1955, Ch. 335, as found in Burns' Indiana Statutes (1955 Supp.), Section 12-816, did not repeal the Acts of 1953, Ch. 194, Sec. 15, as found in Burns' Indiana Statutes (1950 Repl., 1955 Supp.), Section 22-4415. This is because the 1955 Act merely imposed an additional fee on alcoholic beverage permittees, the proceeds of which are to be used by the commission on alcoholism. However, I do not believe that the Acts of 1955, Ch. 335, Sec. 1, *supra*, appropriates any of the funds to be charged and collected thereunder, but that said Act merely authorizes the collection of said fees and provides for the disposition thereof and states the purposes for which said funds may be used. This is borne out by the fact that the 1955 Legislature did provide specific appropriations to the commission on alcoholism in the Acts of 1955, Ch. 303, Sec. 2d, *supra*, which appropriation when considered together with the Acts of 1953, Ch. 194, Sec. 15, *supra*, contemplates that the funds so appropriated are to be available to the commission on alcoholism only upon transfer thereto by the state budget committee with the approval of the Governor.

I am of the further opinion that the Acts of 1955, Ch. 335, *supra*, is clear and unambiguous and not subject to construction, and that all money realized from the collection of the

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fees to be charged thereunder shall be deposited in the enforcement fund of the Indiana Alcoholic Beverage Commission to be used for the purpose of administering the provisions of the Acts of 1953, Ch. 194 which created the commission on alcoholism, or for the purpose of administering any law hereafter creating a successor to the commission on alcoholism.

In view of the foregoing, my answers to your questions are as follows:

1. The Acts of 1953, Ch. 194, Sec. 15, *supra*, was not repealed by the Acts of 1955, Ch. 335, *supra*.

2. Monies received pursuant to the terms of the Acts of 1955, Ch. 335, *supra*, when deposited in the enforcement fund of the alcoholic beverage commission, must be earmarked solely for use by the commission on alcoholism, or its successor for the purpose of administering the Acts of 1953, Ch. 194, *supra*.

3. The commission on alcoholism does not have the right to draw upon unappropriated funds collected under the provisions of the Acts of 1955, Ch. 335, *supra*, under and pursuant to the Acts of 1953, Ch. 194, Sec. 15, *supra*, since, under the Indiana Constitution, Art. 10, Sec. 3, unappropriated money of this nature may not be drawn from the treasury.

I hope that the foregoing has fully answered your questions.

OFFICIAL OPINION NO. 20

May 21, 1956

Mr. Cecil Bolinger
Executive Secretary
Public Employees' Retirement Fund
145 West Washington Street
Indianapolis, Indiana

Dear Mr. Bolinger:

This is in answer to your letter of April 26, 1956, reading in part as follows:

"The Board of Trustees of the Public Employees' Retirement Fund has asked that you give your Official