to the payment for your audit. The obligations of a local Housing Authority are not made the obligations of the associated municipality. Accordingly, it is my opinion that your certificate for payment of your audit of a local Housing Authority should be filed with and the warrant drawn by the disbursing officer of the particular Housing Authority involved.

I, therefore, conclude that:

1. The State Board of Accounts has the authority and duty to examine the accounts, records and financial affairs of local Housing Authorities.

2. A local Housing Authority is required to pay for such audit in the manner provided by statute.

OFFICIAL OPINION NO. 66

December 13, 1954

Mr. R. R. Wickersham
State Examiner
State Board of Accounts
304 State House
Indianapolis 4, Indiana

Dear Mr. Wickersham:

This is in reply to your letter in which you request my Official Opinion. Your letter reads as follows:

"Chapter 74, Acts 1931 (65-302 to 65-307) provided that townships with a first or second class city located therein or townships with a playground or public park under the jurisdiction of the township, the 'salaries of the members of the advisory board, upon whom duties are laid by the act, shall be one hundred dollars each per annum.' The duties imposed upon the advisory boards were in connection with poor relief and public parks.

"Chapter 116, Acts 1935 is an independent act relating to poor relief in all townships.

"Chapter 89, Acts 1941 is an act concerning the ap-
propriation and budgeting of poor relief funds in all townships.

"Section 5, Chapter 105, Acts 1899 as last amended by Chapter 106, Acts 1949 (65-312) fixes the annual salary of each member of township advisory boards at $25.00.

"I request your official opinion upon the following question:

"Are all members of township advisory boards limited to an annual salary of $25.00 each, or are members of township advisory boards coming within the provisions of Chapter 74, Acts 1931 entitled to receive annual salaries of $100.00 each?"

The substance of your question is whether Acts of 1931, Ch. 74, Sec. 4 is still in effect. Said section reads as follows:

"The salaries of the members of the advisory board, upon whom duties are laid by this act, shall be one hundred dollars each per annum."

Section 2 of this Act was held constitutional in Meara, Trustee et al. v. Brindley et al. (1935), 207 Ind. 657, 194 N. E. 351, but Section 4 was not involved in that case.

Said Act, as amended, is printed in Burns' Indiana Statutes (1951 Repl.), Section 65-302 through Section 65-307. However, the editorial staff of the publishers of Burns' Indiana Statutes eliminated Section 4 of said Act and indicated that same was superseded. The following note is contained under Burns' Indiana Statutes (1951 Repl.), Section 65-305:

"Compiler's Note. This section (Acts 1931, ch. 74, § 4, p. 190), fixing salaries of members of township advisory boards in townships with first and second class cities, is superseded by Acts 1949, ch. 106, § 1, p. 248 (§ 65-312)."

Acts of 1931, Ch. 74, supra, is entitled "An Act concerning township business in certain townships, prescribing duties of the trustee and township advisory board, providing penalties and declaring an emergency." Section 1 of said Act makes provision as to the poor relief duties of the township advisory
board in townships having located therein a first class city or
one or more second class cities which are not county seats. Section 2 of said Act establishes a duty upon the part of such
township advisory board to designate and determine what
township employees shall be engaged in poor relief duties. Section 3 of said Act imposes a joint duty on the township
trustee and the advisory board of such a township to manage
and administer public parks or playgrounds. Section 4 has
been quoted above. Section 6 of said Act provides as follows:

"This act shall be supplemental to existing laws, and
only such laws, or parts of laws, as are in conflict here-
with, are hereby repealed."

Acts of 1935, Ch. 116, as found in Burns' Indiana Statutes
(1951 Repl.), Section 52-144 et seq., is a law of general
application concerning poor relief in all townships. Section
38 of the last cited Act provides as follows:

"This act shall be considered as being supplemental
to other acts relating to the matters covered herein and
all such laws including this act shall be liberally con-
strued to effectuate the general purposes and policies
therein set forth. The following acts are specifically
repealed: Chapter 147 of the Acts of 1901, approved
March 9, 1901; chapter 47 of the Acts of 1932 (special
session), approved August 16, 1932; chapter 141 of the
Acts of 1933, approved March 8, 1933; chapter 149 of
the Acts of 1925, approved March 12, 1925; chapter
161 of the Acts of 1907, approved March 9, 1907;
sections one and two so far as they relate to poor relief
and poor relief matters, chapter 74 of the Acts of 1931,
approved March 6, 1931." (Our emphasis)

Acts of 1941, Ch. 89, as found in Burns' Indiana Statutes
(1951 Repl.), Section 52-195 et seq., is a law of general appli-
cation concerning the appropriation and budgeting of poor
relief funds in all townships. Section 5 of said Act repeals all
laws in conflict therewith.

Acts of 1899, Ch. 105, was an act of general application
concerning township business; Section 5 of said Act provided
as follows:
"In making the levies for the township fund, if said Board shall desire compensation for their services to the township, they may add a sum not exceeding five ($5.00) dollars for the service of each member during the year for which the levy is made, payable out of such fund."

Said section of said Act was amended by Acts of 1943, Ch. 133, which provided as follows:

"SECTON 1. Be it enacted by the General Assembly of the State of Indiana, That Section 5 of the above entitled act be amended to read as follows: Sec. 5. Compensation of Board, if desired. In making the levies for the township fund, if said board shall desire compensation for their services to the township, they may add a sum not exceeding twenty-five dollars for the service of each member during the year for which the levy is made, payable out of such fund, to be paid to the members of said advisory board at the rate of five dollars for each meeting of the advisory board, but not exceeding the sum of twenty-five dollars in any one year."

The above amendment to Section 5 of the Act of 1899, Ch. 105, was again amended by Acts of 1949, Ch. 106, Sec. 1, which provided as follows:

"Be it enacted by the General Assembly of the State of Indiana: SECTION 1. That Section 1 of the above entitled act be amended to read as follows: Section 1. That Section 5 of the above entitled act be amended to read as follows: Section 5. The annual salary of each member of township advisory boards shall be twenty-five dollars. In making the levies for the township fund, if said board shall desire compensation for their services to the township, they may add a sum not exceeding twenty-five dollars for the service of each member during the year for which the levy is made, payable out of such fund, to be paid to the members of said advisory board at the end of each year: Provided: Whenever any person shall serve as a member of a township advisory board less than the whole of any
year, he shall be entitled to receive a fraction of such annual salary based upon the time actually served, which salary shall be due and payable at the end of the year, if he then be serving, or at the time of discontinuance of service if the service is discontinued prior to the end of the year."

As thus finally amended, said Acts of 1899, Ch. 105, Sec. 5, is found in Burns’ Indiana Statutes (1951 Repl.), Section 65-312.

The duties of the advisory board with regard to public parks or playgrounds under Chapter 74 of the Acts of 1931, supra, were removed by the 1949 amendment, to-wit: Acts of 1949, Ch. 161, Sec. 1, as found in Burns’ Indiana Statutes (1951 Repl.), Section 65-304, whereby it became the sole duty of the township trustee to transact the business of the administration and management of the public park or playground.

As previously pointed out, the constitutionality of the 1931 Act was before the Supreme Court but in that case, Section 4 relating to the salary of the members of the advisory board was not involved, discussed or decided.

Art. 4, Sec. 22 of the Indiana Constitution provides as follows:

"Local or special laws forbidden.—The General Assembly shall not pass local or special laws, in any of the following enumerated cases, that is to say: * * * [14] In relation to fees or salaries: except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required; [As amended March 14, 1881.]"

Art. 4, Sec. 23 of the Indiana Constitution is as follows:

"Laws must be general.—In all the cases enumerated in the preceding Section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State."

In my opinion, Section 4 of Chapter 74 of the 1931 Act as originally drawn was constitutional under Art. 4, Sec. 22, Clause 14 of the Indiana Constitution, above quoted, for the
reason that said Act imposed additional duties on the members of the advisory board in the class enumerated in said Act which were not imposed upon members of other advisory boards in two respects: First, in regard to poor relief, and second, over parks and playgrounds.

Under the legislative history above set forth, Section 38 of Chapter 116 of the Act of 1935 repealed the poor relief duties of said advisory board members, and the 1949 session of the General Assembly removed their duties over parks and playgrounds. This removed the principal basis of justification for classification in the 1931 Act for paying members of the advisory board in the townships therein and included a different and higher salary than was received or permitted to advisory board members in other townships. It was also at the same 1949 session that it was provided “The annual salary of each member of township advisory boards shall be twenty-five dollars.” This brings up two questions: First, by removing the additional and special duties from the members of the advisory board in the class of townships included in the 1931 Act, which additional duties were the constitutional justification for the higher salaries, did such higher salary thereupon become unconstitutional, and second, did the language above quoted from Chapter 106, Section 1 of the Act of 1949 mandating a $25.00 salary for members of township advisory boards repeal by implication said Section 4 of the 1931 Act. It is to be noted that said language relative to the said salary in the 1949 Act indicated a change of policy on the part of the Legislature in another respect. Under the prior Act of 1943, the fixing of a salary was discretionary but not to exceed $25.00.

Under the 1949 Act, the salary is definitely fixed at $25.00. It attached to the office and made it a lucrative office, whether a member accepted the salary or not. No exceptions were made; this lack of any exception plus the consideration that said Legislature at the same session removed the rest of the additional duties over parks from said advisory board members under the 1931 Act, seems to reasonably lead to the conclusion that the 1949 session intended to put advisory board members in all townships on the same basis, both as to duties and as to compensation.

There is also a rule of statutory construction that a section of a statute, as amended, is to be regarded, as to matters there-
after occurring, as if such section, instead of the section which was blotted out by the amendment, had been a part of the original act. See Russell et al. v. The State (1903), 161 Ind. 481, 482, 68 N. E. 1019.

As previously shown, the sections of Chapter 74 of the Acts of 1931 which placed duties upon the township advisory board, have either been repealed or amended and those duties are placed upon the township trustees. Therefore, no duties are now laid upon the members of the advisory board by that Act and I think there is no authority for the payment of a one hundred dollar [$100.00] salary per annum under said Act.

It is therefore my opinion that all members of township advisory boards are limited to an annual salary of twenty-five dollars [$25.00].

OFFICIAL OPINION NO. 67
December 13, 1954

Hon. Charles F. Rutledge
State Senator
916 South “B” Street
Elwood, Indiana

Dear Senator Rutledge:

This is in reply to your letter in which you request an Official Opinion as to the following:

"1. What means are provided for the enforcement of Section 7, Chapter 266 of the Acts of 1953?"

"2. May a violator of the above provision be prosecuted, and if so, what is the penalty?"

"3. If such violator may not be prosecuted, what other legal remedy exists to enforce said provision?"

"4. What agency, officer or other person is charged with the duty of enforcing this provision?"

The Acts of 1958, Ch. 266, Sec. 17, as found in Burns' Indiana Statutes (1942 Repl., 1953 Supp.), Section 13-1517 provides as follows: