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in that no specific person was authorized to expend the money. In order to have a valid appropriation, three elements must be found:

1. A sum certain or ascertainable.
2. The purpose.
3. Person or persons who have the authority to expend.

Section 211, *supra*, empowers the State Armory Board to erect armories within the State of Indiana. Section 212, *supra*, authorizes the Board to purchase real estate. Section 217, *supra*, authorizes the Board to sell real estate and provides that the proceeds may be used for the purchase of other real property for armory purposes. Section 219, *supra*, states that all proceeds shall be paid to the Treasurer of the State for the use and benefit of the State Armory Board. Section 215, *supra*, is an appropriation of all receipts of whatsoever character for the purpose of paying expenses incurred in the operation of the several armories.

In addition to the aforesaid, note should be taken of the independence of the militia as discussed in 1944 O. A. G., page 363.

It is therefore my opinion that it is unnecessary to await the action of the legislature to gain access to the funds derived from the sale of the old armory in order to build new buildings as the money, when received by the Treasurer of the State, is appropriated for your benefit.

OFFICIAL OPINION NO. 109

November 27, 1953.

Mr. Ross Teckemeyer,
Executive Secretary,
Public Employees' Retirement Fund,
707 Board of Trade Building,
Indianapolis 4, Indiana.

Dear Mr. Teckemeyer:

This is in reply to your inquiry of November 4, 1953. From your letter and other amplifying information, I understand

that you desire my official opinion on a question which may be stated as follows:

Is the resolution adopted by The Housing Authority of the City of Gary, Indiana, on October 28, 1953 sufficiently broad to authorize the coverage of employees of said Housing Authority under the Social Security Act?

It appears from your letter that such housing authority "has entered into a contract with the Continental Assurance Company of Chicago, Illinois for what is commonly called a 'retirement income plan.' It seems as though this policy was created and worked out with the United States Government and is called 'Group C' local housing authority plan." I further understand from your amplifying information that this policy may be cancelled by the housing authority and upon cancellation the termination would be effective on December 15, 1953.

The resolution of the Housing Authority of the City of Gary, Indiana reads in part as follows:

"SECTION 1. THEREFORE, be it resolved, that the Commissioners of THE HOUSING AUTHORITY OF THE CITY OF GARY, LAKE COUNTY, INDIANA hereby elects coverage under the OLD AGE AND SURVIVORS' INSURANCE, as provided by Chapter 313, Indiana Acts of 1951.

"SECTION 2. The following positions are hereby designated as those *which are to be covered*: ALL POSITIONS NOT COVERED BY AN EXISTING RETIREMENT OR PENSION PLAN.

* * *

"SECTION 4. This Resolution shall be in full force and effect for all intents and purposes upon passage, on condition that necessary approvals be obtained from the Indiana State Agency administering the Public Employees Retirement Fund, the Federal Security Administrator, and the Public Housing Administration prior to December 31, 1953, and further that *active coverage shall begin as of the 1st day of January, 1954.*" (Our emphasis.)

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It is your expressed view that the policy issued by the Continental Assurance Company prevents coverage under the Social Security Act unless such policy is cancelled prior to the effective date of participation; your view in this matter is based upon the Federal Act of 1950, Chapter 809, Title I, Section 106, the same being found in Tit. 42, U. S. C. A., Section 418 (d). Said section provides as follows:

“(d) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system on the date such agreement is made applicable to such coverage group.”

In my opinion your question should be answered in the affirmative.

1942 O. A. G., page 15, Official Opinion dated January 23, 1942 dealt with the nature of Housing Authorities under Chapter 207 of the Acts of the General Assembly of 1937, the same being found in Burns' Indiana Statutes Annotated (1950 Repl.), Section 48-8101 *et seq.* The opinion of the Attorney General cited stated as follows:

“In view of these declarations of the General Assembly and the Supreme Court, there can be no doubt that a housing authority is a ‘political subdivision of the State.’

* * *

“The legislature has declared that ‘An authority shall constitute a politic body corporation, exercising public and essential governmental functions * * *’ (Sec. 8, Chap. 207, Indiana Acts of 1937, at p. 1041), and ‘that the construction of housing projects for persons of low income (as herein defined) would, therefore, not be competitive with ordinary operation of private enterprise, * * *’ (Sec. 2 (c), Chap. 207, Acts of 1937, at p. 1035).

* * *

“The Congress of the United States, after hearings upon the subject, and the General Assembly of Indiana and the legislatures of most of the states of the nation,

have enacted legislation authorizing the creation of such governmental agencies.”

Such official opinion of the Attorney General held that the activities of housing authorities created under the Indiana Housing Authorities Act, *supra*, are not proprietary in character. It is further to be noted that under the Act such housing authorities shall not be operated for profit. Indiana Housing Authorities Act, *supra*, Section 9, Burns' Indiana Statutes Annotated (1950 Repl.), Section 48-8109; 1942 O. A. G., page 17.

The Acts of the General Assembly of 1951, Chapter 313, the same being Burns' Indiana Statutes Annotated (1951 Repl.), Section 60-1901 *et seq.*, declares the policy of the State of Indiana to be to provide the benefits of the Social Security Act to employees of the political subdivisions of the State “on as broad a basis as is permitted under the Social Security Act.” Section 10 of such Act, *supra*, the same being Section 60-1910 of Burns' Indiana Statutes Annotated, *supra*, provides in substance, that any employee of a political subdivision who is a participant in a state-wide or local tax supported retirement plan may participate in the Old Age and Survivors' Insurance Program of the Social Security Act whenever the latter Act “permits said participation by such employees”; the Indiana Act excepts from these provisions policemen, firemen and teachers. Section 7 of such Act, *supra*, the same being Section 60-1907, Burns' Indiana Statutes Annotated, *supra*, provides in part as follows:

“Any political sub-division may elect coverage for the employes of that sub-division by ordinance or resolution properly adopted by the governing body. The ordinance or resolution shall provide that coverage shall begin on the first day of January of any year. The governing body shall provide by appropriation, or otherwise, for the payments which will become due as set out in Section 4 (§ 60-1904) of sub-section c-1 of this act.

“Within 10 days after the passage of the ordinance or resolution a certified copy shall be submitted to the state agency for approval as provided in Section 3 (§ 60-1903) of this act. On approval by the state agency it shall submit to the political sub-division an

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agreement which shall conform with the agreement entered into between the state agency, with the approval of the Governor, and the Federal Social Security Administrator as provided for in Section 3 (§ 60-1903) of this act.”

The resolution of the Housing Authority of the City of Gary, Indiana states that active coverage under the federal program shall begin as of January 1, 1954. Such resolution further refers to the positions “which *are to be covered*” as being “all positions not covered by an existing retirement or pension plan.” The fair interpretation of this resolution is that it is prospective in operation. That is to say, the resolution intended to cover all positions not included in an existing retirement or pension plan as of January 1, 1954. Therefore, the language of the resolution is sufficiently broad to include all employees of the housing authority who are not covered by any retirement or pension plan on January 1, 1954. The insurance policy carried with the Continental Assurance Company is contractual in nature and can be terminated in accordance with the terms of said contract of insurance.

In view of the above interpretation of the resolution of the housing authority, it becomes unnecessary to determine whether a private contract of insurance commonly referred to as a “retirement income plan” comes within the meaning of the words “retirement system” contained in Title 42, U. S. C. A., Section 418 (d), *supra*. Specifically, it is unnecessary to determine whether such quoted words refer to a retirement system established by a law of the State and which retirement system is a state-wide or local tax supported retirement plan. The effect of this opinion of the Attorney General is merely that if the local housing authority, pursuant to the terms of the private contract of insurance, may and does terminate said policy of insurance prior to January 1, 1954, then under the resolution referred to above, and in accordance with the Acts of the General Assembly of Indiana of 1951, Chapter 313, *supra*, and Title 42, U. S. C. A., Section 418, *supra*, all necessary procedure may be taken for the coverage of these employees under the old-age and survivors’ insurance program of the Federal government.