among the employees who were members of the fund at the time of withdrawal."

The last quoted paragraph is, as far as I can determine, the only law required to be compiled with by a municipality when that governmental unit elects to withdraw from participation of the retirement fund.

Inasmuch as said last paragraph sets forth mandatory procedure to be complied with when a municipality withdraws from the fund, it necessarily follows that Madison County will not be permitted to withdraw until six (6) years have elapsed from the first day of the fiscal year immediately following service of written notice stating a desire to withdraw. For the reason that the Madison County welfare unit only became a participating member in 1950, it follows that the county has not withdrawn and is still a member. Therefore, as such member, Madison County is liable for payment of just claims properly assessed by the Fund.

Because it appears that said county has incurred a proper indebtedness and is liable for its payment, it follows that, if the county fails or refuses to make payment, it becomes subject to action by the Attorney General’s office as outlined earlier in this opinion.

OFFICIAL OPINION NO. 106

Dr. Roy W. Elrod,
State Veterinarian,
1330 West Michigan Street,
Indianapolis, Indiana.

December 4, 1951.

Dear Sir:

Your request for an official opinion presents the following question:

"Where a county makes an appropriation in any one year to carry out a contract made by the county commissioners with the Live Stock Sanitary Board, and the contract is not performed until the subsequent year, may the appropriation be carried over and remain available in such subsequent year?"
These appropriations are for Tuberculin testing of Counties on the cooperative plan, or jointly in the State of Indiana.

In this regard, I call your attention to Sec. 26-524 Burns' 1933 which provides for the reversion of funds and reads as follows:

“When any item or appropriation shall remain unexpended at the end of the calendar year for which the same was appropriated, the amount therefor shall immediately revert to the general fund of the county, and no warrant shall be drawn on such appropriation after the end of such year: * * *.”

Your question necessitates a construction of “unexpended” as used in the above quoted statute.

I find that this construction and interpretation has been made by this office, and in my opinion, your question has been answered by the following opinions of this office:

O. A. G. 1945, No. 128,
O. A. G. 1946, No. 53,
Unofficial Opinion dated December 10, 1946.

It is to be noted that these opinions deal with the reversion of municipal appropriations, but the governing statute in that regard—Section 48-1506a Burns' 1933, 1945 Supplement—is practically identical to the statute controlling county appropriations—supra.

The 1945 opinion, supra, after discussing the construction of the term “unexpended” stated on page 556 as follows:

“I am therefore of the opinion if a contract is awarded during a calendar year in which there is a proper and sufficient appropriation available therefor but the contract price is not paid prior to the end of the calendar year because full performance of the contract is not completed, that such money so appropriated is in fact no longer “unexpended” and would not revert to the fund against which it was appropriated under the provisions of the foregoing statute.”
The 1946 Unofficial Opinion, supra, carried the reasoning one step further as under the factual statement considered there, although the appropriation was made and the contract entered into in one calendar year, there was no expectation that any work would be started or any expenditure made until the succeeding calendar year. On page 2 reference was made to the previous opinions, which I have cited above, and then this conclusion was made:

"Under the above opinions, the said appropriations would not revert to the General Fund where it is earmarked for the special purpose of employment of the architect to prepare the plans and specifications for the addition to such city hospital, if the contract of employment with the architect is entered into and the debt is thereby incurred for such service, prior to the end of the year 1946. Otherwise, it would revert to the General Fund."

In the presented situation, the appropriation by the county was made pursuant to Chapter 215, Acts 1925 which empowered county councils to appropriate funds and boards of county commissioners to sign contracts for the purpose of controlling and extirpating bovine tuberculosis. In Section 2 of that act (Section 16-609 Burns' 1933) it is provided that:

"Whenever such appropriation shall have been made by the county council of any county, the board of county commissioners of such county shall enter into a contract with the state veterinarian for the employment of a veterinary inspector, * * *. All inspectors so employed shall meet the requirements of and shall operate at all times under the direct supervision and be subject to the control of the state veterinarian and the inspector in charge of the United States bureau of animal industry within the state."

I am informed that, in the counties in which your question pertains, in accordance with the above quoted section, contracts were entered into between the county commissioners and the state veterinarian. An actual contract was submitted to me with your letter and I was informed that all
such contracts are identical as to their provisions. The con-
tract submitted is for the stated purpose of eradicating
bovine tuberculosis from the herds of cattle within said
area of ______ county. Although this particular contract is
dated the second day of June, 1947, it contains no provision
as to the actual time of commencing the work of testing,
and no stated time for the completion of the work. Para-
graph four (4) of this contract provides as follows:

"It is further understood and agreed by and between
the parties hereto that the work herein set forth shall
continue until such time as the percentage of bovine
tuberculosis shall be reduced to not more than one-
half of one percent in said county: Provided, how-
ever, that when in the opinion of the said party of the
first part and the Inspector in Charge, Bureau of
Animal Industry, United States Department of Agri-
culture, the available funds will not warrant the con-
tinuance of work above set forth, the same shall, upon
notice to the party of the second part, cease until addi-
tional funds are available, and a new contract entered
into."

This contract places an obligation upon the funds appro-
priated and the entire amount would thereby be encumbered
until the work was completed under the contract.

Therefore, it is my opinion, when an appropriation has
been made and a contract duly entered into, pursuant to the
above quoted statutes, that none of the appropriation would
revert to the general fund at the end of the calendar year
and the appropriation or any remaining part would continue
to be available for use in accordance with the contract in the
succeeding year.