Offical Opinion NO. 107

December 26, 1951.

Honorable W. Howard Patrem,
Director,
Board of Industrial Aid and
Vocational Rehabilitation
for the Blind,
536 W. 30th Street,
Indianapolis, Indiana.

Dear Sir:

I have your request of an official opinion which reads as follows:

"The members of the Board of Trustees of the above-named Agency have requested the Director to ascertain a legal opinion from the Attorney-General's Office relative to receiving net profits from the sales of soft drink machines owned and operated by private organizations desiring to donate or give proceeds to the Board of Industrial Aid and Vocational Rehabilitation for the Blind, and such funds to be deposited with this Agency and receipts to be used for vocational rehabilitation of blind individuals.

"The Board of Industrial Aid and Vocational Rehabilitation for the Blind will not invest in soft drink machines purchased, or financially obligate themselves in any manner for the machines, as the purchases of said machines are made by the public or private organizations and the net proceeds from the sales of these drinks are the proceeds being donated or given to this organization to further the vocational rehabilitation and to defray the expenses incurred in vocational rehabilitation for the blind.

"Therefore, under Chapter 97, of the Acts of 1947, does the Board of Industrial Aid and Vocational Rehabilitation for the Blind have legal authority to receive these donations or gifts and deposit them in a special account called 'the special fund for the vocational rehabilitation of the blind' (Section 11, Chapter 97, of the Acts of 1947), and will the Board of Trustees have full authority in the disbursements of these
funds to defray the expense of vocational rehabilitation for the blind?

"Such donations and gifts are not contrary to Codified State Plan, Part II, of the Vocational Rehabilitation for the Blind; nor is it contrary to the Federal Act providing for vocational rehabilitation of the blind. The Board of Trustees and the Director will appreciate your legal opinion in this matter."

Section 11 of chapter 97 of the Acts of 1947, same being Burns 22-833, provides as follows:

"The board of industrial aid and vocational rehabilitation for the blind designated to cooperate as aforesaid in the administration of the federal act is hereby authorized and empowered to receive such gifts and donations, either from public or private sources, as may be unconditionally or under such conditions related to the vocational rehabilitation of the blind as, in the judgment of the board, are proper and consistent with the provisions of this act. The board with the approval of the governor is hereby empowered to acquire by gift, bequest or purchase, any property real or personal, and to administer and use the same in harmony with the purpose of this act. The power and authority is hereby given to said board with the approval of the governor to alienate any property so acquired and invest and re-invest any and all proceeds thereof, and to receive the rents, profits, or interest accruing from such property and to erect and maintain such buildings or structures as in its judgment may be desirable or necessary for the purpose of the board. All moneys received as gifts or donations shall be deposited in the state treasury and shall constitute a permanent fund to be called the special fund for the vocational rehabilitation of the blind, to be used by the said board to defray the expenses of vocational rehabilitation in special cases, including the payment of necessary expenses of persons undergoing training. A full report of all gifts and donations offered and accepted, together with the names of the donors and the respective amounts contributed by
This section give unequivocal authority to receive donations from private persons as long as they are unconditional or the condition is, in the judgment of the board, proper and consistent with the provisions of the Industrial Aid Act.

Your specifically ask whether the board of trustees will have full authority in the disbursement of these funds to defray the expenses of vocational rehabilitation for the blind. The section quoted above, and particularly the second underlined passage, requires that such donations be used to defray the expense in special cases. Thus, the board would have discretion in the use of such funds, but the funds would have to be used in some particular case or cases of a special nature and could not be used for such expenses as were necessary in the general administration of the act.

OFFICIAL OPINION NO. 108

December 26, 1951.

Mr. Otto K. Jensen,
State Examiner,
State Board of Accounts,
Indianapolis 4, Indiana.

Dear Sir:

I have your request for an Official Opinion in which you make the following statement of facts:

"Population of the city according to the official United States Census of 1940 was 33,434. The population according to the official United States Census of 1950 is 35,646. The city operates a municipal water utility, but does not operate a municipal light utility. At the present time, the city has a Clerk-Treasurer and a City Controller. The City Controller handles the collection of Barrett Law assessments. With a view toward becoming a second class city, no candidates were nominated for the office of Clerk-Treasurer