For those reasons, I am of the opinion that the answer to your question is in the affirmative.

PUBLIC INSTRUCTION: Whether under Chapter 200 of the Acts of 1943 township trustees may accept bids for school bus contracts. Whether school bus drivers are required to take physical examinations.

April 19, 1943.

Honorable Clement T. Malan,
Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Mr. Malan:

I am in receipt of your letter of April 19, 1943, requesting my opinion on the following questions, to wit:

"1. Does Chapter 200, Acts of 1943 permit the township trustee to accept bids for letting of school bus contracts or does it make the negotiation of such contracts mandatory?
2. Are school bus drivers still required to take the physical examination before being awarded a school bus driver's contract?"

Chapter 200 of the Acts of 1943 is entitled “An Act concerning the transportation of school children, suspending certain laws and declaring an emergency.”

Section 1 of the Act expressly providees that Chapter 161 of the Acts of 1941 is suspended until March 15, 1945.

Section 2 reads in part as follows:

“The trustee of any township of this state, with the consent and approval of the advisory board as provided herein, shall procure the services of school bus drivers and shall make contracts for the services of school bus drivers of such townships upon the most advantageous terms to such township which may be secured, pursuant to due notice and advertised hereinafter provided.”
Section 3 provides for the notice to be given and the contents thereof.
Section 4 provides what the contract shall contain and that the driver shall execute bond and the compensation to be paid.
Section 6 authorizes the Trustee and Advisory Board to purchase school buses and school bus equipment for the transportation of school children whenever it is impossible to secure the services of school bus drivers or transportation facilities.

In answering your first question I call your attention to the following language contained in Section 2 of Chapter 161, Acts of 1941, being Burns' R. S. 1933 Supp, Sec. 28-3916, to wit:

"The trustee shall award the contract to the \textit{lowest and best responsible bidder} not rejected by the advisory board or the trustee may reject all such bids."

It is a well settled principle of statutory construction that where an act is amended or a new act is passed embracing the same subject matter with a change in the phraseology or incorporating any new provision that the Legislature is presumed to have intended to change the existing law. Comparing the italicized language above quoted as found in Section 2 of Chapter 200 of the Acts of 1943 with the quoted language above set forth as found in Section 2 of Chapter 161 of the Acts of 1941, Burns' R. S. Supp., Sec. 28-3916, we find that, under the provisions of Chapter 161, Acts of 1941, the Legislature made it mandatory upon the township trustee to award a contract to \textit{the lowest and best responsible bidder} while under the language of Section 2 of Chapter 200 of the Acts of 1943 the trustee is authorized, with the consent and approval of the advisory board, to "procure the services of school bus drivers and shall make contracts for the services of school bus drivers of such township \textit{upon the most advantageous terms to such township} pursuant to due-notice," etc. Therefore, it must be presumed that the Legislature intended to give to the township trustee and the advisory board a discretion as to whom the contract should be awarded.

Chism v. State, 203 Ind. 241;
Dept. etc. v. Muessel, 218 Ind. 250;
State ex rel. v. Beal, 185 Ind. 192.
Applying the law as established by the above cited authorities to the provisions of Chapter 200, Acts of 1943, it is my opinion that, under the provisions of Sections 2 and 3 of Chapter 200 of the Acts of 1943, township school trustees are required to advertise for bids as provided by Chapter 200 of the Acts of 1943 but that, after due notice has been given as required by the Act, the township trustee, with the consent of the advisory board, has a discretion as to the bids which should be accepted, and for this reason, the township trustee, with the consent of the advisory board can negotiate with the various bidders and award a contract, and that they are not necessarily required to award the contract to the "lowest and best responsible bidders" as required by the provisions of Chapter 161 of the Acts of 1941, which has been suspended until March 15, 1945.

My answer to your second question is that school bus drivers are required to take the physical examination before being awarded a school bus driver's contract. This physical examination is expressly required by the provisions of Chapter 214 of the Acts of 1941, being Burns' R. S. Supp., Sec. 28-2902, which is still in full force and effect and has never been amended, suspended, or repealed by any act of the 1943 session of the General Assembly.

STATE BOARD OF HEALTH: Indiana Medical Practice Act, whether licensing provisions of said Act apply to officers of the United States Public Health Service who are attached to the Indiana State Board of Health.

April 20, 1943.

Hon. Thurman B. Rice, M. D., Director,
Indiana State Board of Health,
Indianapolis, Indiana.

Dear Doctor Rice:

I have before me your request for an opinion concerning the licensing of officers of the United States Public Health Service under the Indiana Medical Practice Act, who are attached to and assisting the Indiana State Board of Health.