This conclusion is further strengthened by the provision of Section 61-666 which provides specifically that:

"Any person who may have any money due and owing to him from such fund may file his claim therefor with such municipal corporation taking over such deposits" * * *. (Our italics.)

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

I desire to say in passing that your question is involved in what I think is a misapprehension of the situation created by the statute. It would seem at first that if the money is due the clerk, the clerk would, of course, have a claim for it. However, the statute makes it very clear that the claim of the clerk inures to the municipal corporation for, in and on behalf of which the officer has officially served or is serving, so that as a matter of fact, the funds are no longer due the clerk. That fact, however, would not alter the character of the funds involved, and, if they were trust funds their trust character would remain in the hands of the municipal corporation to the same extent and in the same manner as they were formerly held by the clerk. Kindred phases of this question have been considered by this department and are embodied in an opinion dated June 8, 1937, addressed to the Honorable W. P. Cosgrove, State Board of Accounts. See Opinions of Attorney General 1937, page 310.

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INDIANA TAX BOARD: Whether tax board or county adjustment board may reduce salaries of school teachers.

June 11, 1942.

Hon. Henry S. Murray,
Chairman, Indiana Tax Board,
State House,
Indianapolis, Indiana.

Dear Mr. Murray:

I have before me your letter requesting an official opinion in answer to the following questions:
“If a Township Trustee or School Board contracts with a teacher in an amount more than the minimum as set out by law, can Adjustment Board or State Tax Board reduce the amount below the contract, or is it mandatory that amount of contract be appropriated? In other words, can either the State Tax Board or Tax Adjustment Board in reducing the levy, also reduce appropriation and make correspondent reduction in salary?”

I have answered these questions with respect to the school city of Indianapolis in an opinion addressed to the Secretary of the Indiana Tax Board, dated November 12, 1941. Opinions of Attorney General 1941, page 379. In consideration of the present questions, therefore, what is said with reference to school corporations other than school townships, does not affect what was said in that opinion concerning the Indianapolis school corporation.

It is provided by statute that the school trustees shall take charge of the educational affairs of their respective townships, towns and cities and, among other things, they are charged with the duty of employing teachers for the schools under their charge.

Burns’ Indiana Statutes Annotated 1933, Sec. 28-2410.
Applicable to the conduct of township business provision is made by law for the organization of an Advisory Board, the duties of which are prescribed by statute. See Burns’ Indiana Statutes Annotated 1933, Sec. 65-301 et seq. It is provided that this Board shall meet annually on the first Tuesday of September, at which meeting the Board shall consider the various estimates of township expenditures proposed by the township trustee, and that they shall have power to concur in such estimates or in any part thereof, or to reject any proposed items in whole or in part.

Burns’ Indiana Statutes Annotated 1933, Sec. 65-301.
Section 65-310 of Burns’ Indiana Statutes Annotated 1933 provides that at least thirty days and not more than forty days before the annual meeting of the Advisory Board in each year, the trustee shall post at or near the door of all post-offices in the township a statement of the several estimates and amounts of the proposed annual expenditures, and the rates of taxation proposed for levy against the property
within the township for the several funds to be expended during the calendar year. Copies of this notice are required to be published. This, of course, is for the purpose of advising the taxpayers having an interest in the subject, who have a right to appear and be heard as to the advisability of any expenditure set out. Each member of the Advisory Board is likewise to be furnished with a statement of proposed expenditures on a form set out in the statute.

Burns' Indiana Statutes Annotated 1933, Secs. 65-309, 65-310.

Section 65-311 of Burns’ Indiana Statutes Annotated 1933 provides, among other things, that the trustee shall attend all of the meetings of the Advisory Board, and at the annual meeting he shall present a detailed and itemized statement in writing of his estimated expenditures for which appropriations are asked, specifying the number of teachers necessary to be employed, their salaries respectively, the number of days deemed necessary for the discharge of the duties of his office, and many other things not necessary to be mentioned.

Later on in Section 65-313 of Burns’ Indiana Statutes Annotated 1933 it is provided that:

"* * * In no event shall a debt of the township be created except by the Advisory Board of such township, and in the manner herein specified" * * *

and Section 65-321 of Burns’ Indiana Statutes Annotated 1933, provides that:

“All contracts made in violation of this act shall be null and void.”

The sections above referred to are generally spoken of as the “Township Reform Act” which, it has been held, applies to the employment of school teachers in the same manner as it applies to any other contracts made by the township trustee. Mitcheltree School Twp. v. Baker, 53 Ind. App. 472. Accordingly it has been held that a contract by a school township through its trustee with a teacher without an existing appropriation is void. Mitcheltree School Twp. v. Baker, 53 Ind. App. 472 at page 475.
This requirement of a prior appropriation, which I have been considering, is developed out of the provisions of the so-called "Township Reform Act" and, so far as I have been able to find, there is no similar provision affecting the employment of teachers by school towns or school cities. Accordingly this Department held that a three-year contract between a teacher and a joint high school corporation could be upheld. Opinions of Attorney General 1939, page 137.

I desire now to pass to a consideration of the County Adjustment Board Act of 1937. This act provides that there shall be created in each county of the State a "County Board of Tax Adjustment" composed of seven members. December, 1941, Cumulative Pocket Supplement of Burns' Indiana Statutes Annotated 1933, Section 64-310.

Section 64-311, immediately following, makes it the duty of the officers of each municipal corporation which, under the definitions set out in Section 64-308, would include school townships and school cities and towns, at the time of filing a statement of the tax levies and rates fixed by each of said municipal corporations to file with the County Auditor at least two days prior to the second Monday in September, two copies of the budgets on which said tax levies are based, which are to be carefully preserved by the Auditor for the use of the County Tax Adjustment Board. Thereafter follows a statement of the powers and duties of said Board, including among other things the following:

"* * * It shall be the duty of such tax adjustment board to examine, revise, change or reduce, but not increase, any budget, tax levy or rate, and to hold such budget within the total of the amount of revenue to be raised therefor from any source whatsoever, to reduce such budget in accordance therewith." * * *

Later on in the same section it is provided as follows:

"* * * If the county tax adjustment board shall revise, change or reduce any such budget, levy and rate as fixed by the proper officers of any such municipal corporation, the budget, levy and rate as so revised, changed or reduced by said board shall be the only budget, levy and rate upon which taxes shall be levied, collected and applied during the ensuing year, except as herein otherwise provided."
Section 64-312 of Burns' Indiana Statutes Annotated 1933, makes certain exceptions as to which the act shall not apply. These include the funds necessary to meet principal and interest upon funding, refunding or judgment funding obligations of the corporation; interest or principal upon any outstanding obligations of any municipal corporation or of any judgment taken against it. The interest and principal upon any obligations issued by any municipal corporation to meet an emergency growing out of a flood, fire, pestilence, war or other major disaster; and the interest and principal upon any other obligation issued pursuant to petition as provided in another section of the act. Later on the act provides for an appeal to the Indiana Tax Board and provides that:

"The budget, levy and rate as fixed by the order of the state board of tax commissioners on such appeal shall be the only budget, levy and rate upon which taxes shall be levied, collected and expended during the ensuing year."  * * *

December, 1941, Cumulative Pocket Supplement of Burns' Indiana Statutes Annotated 1933, Sec. 64-314.

In the statement of the exceptions or items over which the County Tax Adjustment Board has no authority, contracts with school teachers are not, by name, included, although the language "the interest or principal upon any outstanding obligations" may be considered as broad enough since, if a legal contract has been entered into, its obligation would be a charge against the corporate entity making the contract. Moreover, if the above language is not broad enough to include such a contract, for practical purposes it would make no difference since, if the contract is legal, the corporate unit making it would in the last analysis, be obliged to pay any debt thus created, even though its payment might be temporarily postponed.

I think, therefore, that in the final analysis, and for all practical purposes, your question must be determined upon a consideration as to whether the contracts are legal and whether they were entered into at a time prior to any attempted reduction of appropriations made by the County Tax Adjustment Board. As already pointed out, except as to the City of
Indianapolis, the requirement of prior appropriation does not seem to apply as a limitation to school cities or to school towns, and if the contract had been executed prior to the attempted reduction, and is otherwise legal, I do not think the County Tax Adjustment Board by reduction or otherwise could invalidate a contract thus entered into.

As to contracts of teachers with school townships, there is no doubt of the fact that a prior appropriation is necessary to a legal contract, but I think the appropriation by the Advisory Board is sufficient to meet that requirement.

The same rule which applies to the County Tax Adjustment Board applies to the Indiana Tax Board. Since both questions are intended to be the same, stated somewhat differently, it will only be necessary to answer your second question. Upon the basis that the contracts are legal, as herein defined, and are in existence at the time of any attempted reduction by the Tax Adjustment Board, the answer to your question is in the negative.

INDIANA GIRLS' SCHOOL: Name of School of Letters of such institution; whether it may take the name of "Araminta Kern School of Wayne Township."

June 13, 1942.

Mrs. Adeline C. Lehman, Supt.,
Indiana Girls' School,
R. R. 2, Box 440,
Indianapolis, Indiana.

Dear Mrs. Lehman:

You have asked what procedure to take so that the School of Letters of the Indiana Girls' School may be carried on the public records of your institution, and of the State, as the Araminta Kern School. You have attached to your inquiry a copy of the resolution adopted by the Board of Trustees giving such School of Letters the name Araminta Kern School of Wayne Township, Marion County, Indiana.

I understand that this school is especially commissioned by the Department of Education of the State by reason of which the credits earned by the pupils attending such school are as