is made in the articles of incorporation or unless such payment is authorized by the affirmative vote or written consent of the holders of a majority of the shares of the class in which payment is to be made."

This provision means only that appropriate legal steps shall be taken by the corporation with respect to the provisions of the articles of incorporation and the written consent of a majority of the shareholders. In answering your question, I am assuming that these steps, as well as the legitimacy of the revaluation of the assets from an accounting standpoint, are separate matters which will come under the scrutiny of the Commission.

INDIANA TAX BOARD: Welfare Budgets—Whether same are before the Tax Board in a so-called automatic appeal under Section 64-311 of Burns' Indiana Statutes Annotated 1933.

October 15, 1942.

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

Dear Sir:

Section 5 of the Tax Limitation Law of 1937, Chapter 119 of the Acts of 1937, provides among other things, as follows:

"The local tax adjustment board shall endeavor to limit the aggregate of the tax rates in accordance with the provisions of this act; Provided, however, That if said board shall, as a result of its analysis and review of the budget or budgets of any municipal corporation or corporations, come to the conclusion that the rate of taxation as limited by the provisions of this act is inadequate or that there be reasonable necessity for an increase of the aggregate rate, then, in that event, the tax adjustment board shall submit in writing such recommendations, including an analysis of the total aggregate rate and such other data as in its discretion will transmit to the state board of tax commissioners
all the necessary facts and circumstances under which, in its opinion, the final aggregate rate should be broken down and distributed to the separate and several corporations, and such recommendations shall be filed in duplicate in the office of the county auditor, one (1) copy of which shall be immediately forwarded to the state board of tax commissioners and all other data shall be preserved in the office of the county auditor for the use of all parties. The state board of tax commissioners shall then proceed to review such budgets and proceed according to the provisions outlined in this act governing appeals.”

Burns’ Indiana Statutes Annotated (1933), June, 1942, Cumulative Pocket Supplement, Section 64-311.

You request an official opinion as to whether you may reduce or raise county welfare rates in the consideration of the budget or budgets of any municipal corporation coming to the Board, pursuant to the above provisions.

In answering this question I desire to call your attention first to Section 10 of the 1937 Tax Limitation Law which provides as follows:

“None of the provisions of this act shall be deemed or construed to limit, modify, amend, restrict or repeal any of the provisions of Chapter 3 of the Acts of the Special Session of the 79th General Assembly of 1936 or any act amendatory thereof or supplementary thereto, and the provisions of this act shall not restrict or modify or in any way apply to the fixing of tax levies, making of appropriations and providing of funds and the right of appeal or ordering of an appeal in connection therewith.”

Burns’ Indiana Statutes Annotated (1933), June, 1942, Cumulative Pocket Supplement, Section 64-316.

Chapter 3 of the Acts of the Special Session of the 79th General Assembly of 1936, referred to, is the Welfare Act. In my opinion, therefore, the Tax Limitation Law of 1937,
by express exclusion, would not apply to the fixing of tax levies for the County Department of Public Welfare. Likewise, it would appear that the right of appeal as provided in the Tax Limitation Law would not apply as respects the County Department of Public Welfare under the Welfare Act. This is made more apparent by reference to the Welfare Act itself which, upon the subject of appeals, provides only for an appeal by the County Board of Public Welfare on its own initiative or on request in writing by the State Board of Public Welfare. (Burns' Indiana Statutes Annotated (1933), June, 1942, Cumulative Pocket Supplement, Section 52-1304.)

In my opinion, therefore, the County Public Welfare Budgets and rates are not before the Tax Board in review provided by Section 64-311 supra, a portion of which was quoted in the earlier part of this opinion.

The applicable section pursuant to which County Public Welfare budgets and rates may be brought before the Indiana Tax Board in Section 58-1304 supra, which limits the right of appeal to appeals by the County Board of Public Welfare which may be taken on its own initiative or on request in writing by the state board.

Your second question is: Does the Tax Board in the case of budgets which come before it under Section 64-311, supra, have the right to reduce the rate for county bonds or county unit road bonds? The answer to that question is in the negative except that said board may determine that the levies and rates exceed the amount actually necessary for the payment of said obligations. See Section 64-312 of Burns' Indiana Statutes Annotated (1933), June, 1942, Cumulative Pocket Supplement.