October 23, 1940.

Honorable C. B. Coleman, Director,
Indiana State Library,
Indianapolis, Indiana.

Dear Sir:

I have your inquiry as to whether public funds in the custody of public boards governing public libraries may be used to pay any part of the premiums upon retirement annuity policies taken out by employees of their libraries. You have also asked the following questions:

"Under the present laws, do boards of trustees of public libraries, school boards controlling public libraries, or other bodies governing public libraries, have the legal right to set aside funds secured from taxation or other sources for the establishment of pensions, annuities, etc., to be administered by the said boards of trustees of public libraries or school boards?"

"If the above questions are answered in the negative, is there any opportunity under the present laws for boards governing public libraries to provide, or establish, or contribute toward a system for pensioning superannuated employees, or making some regular payments to employees after retirement on account of age?"

There are no statutes authorizing the expenditure of public funds for the purpose of either paying premiums upon retirement annuity policies taken out by public library employees or for the purpose of establishing funds for pensions, annuities, etc., for library employees to be administered by the boards of trustees of public libraries or school boards.

As to your third question, I would call your attention to the following language contained in Section 41-213 of Burns’ Indiana Statutes Annotated, 1933:

"Such library board shall have the power to make and enforce rules for the management of the library under its control as it may deem necessary, and to
employ a librarian and such assistants as may be needed in the care and preservation of the property belonging to such library, and to fix and pay the salaries of the librarian and the necessary assistants and other necessary employees."

The authority to pay salaries given so expressly in the language above quoted necessarily excludes any authority to make other provision for such employees by way of retirement pension funds or annuities and further legislation would be required, in my opinion, to authorize the use of public funds for such purposes.

DEPARTMENT OF PUBLIC WELFARE: Construction of Chap. 47, Acts of 1939, limiting expenditures of appropriations for benevolent institutions for the year beginning July 1, 1940. Under Chapter 47, Acts of 1939, when does excess per capita appropriations become available?

October 24, 1940.

Hon. T. A. Gottschalk, Administrator,
State Department of Public Welfare,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Mr. Gottschalk:

I have your letter of October 23, 1940, in which you ask a construction of Chapter 47 of the Acts of 1939, which is one of the appropriation acts passed by the last legislature and your inquiry deals especially with the provisions of Section 8 and Section 10 of that act so far as the same applies to the maintenance of the state benevolent institutions and the inmates thereof. These sections are as follows:

"That the Department of Treasury is hereby authorized to allow such bank service charges in the handling of the gasoline tax refund account and the State Highway Commission revolving fund, as in their judgment may be equitable. Such charges to be paid from the fund thus affected.

"Not more than one-half of the appropriation for the fiscal year ending June 30, 1941, for personal service