the salaries for the extra clerical force, if any, required in their respective offices to carry out the requirements of the law by reason of the establishment of said district and the said board of commissioners shall provide for and pay said salaries to said clerk or clerks, while engaged on the work of the district, which clerks shall be selected and appointed by each of said county officers for their respective offices,"

and provides further that:

"In case of disagreement as to compensation of such extra clerical force, the matter shall be referred to the court for its determination."

In view of the repeal of the above provisions, I think it is clear that the legislature intended by the 1933 enactment, supra, to take such collections out of the hands of the proper county treasurer and place them in the hands of the proper city treasurer.

TEACHERS' RETIREMENT FUND BOARD: Appropriation —whether board may exceed biennial appropriation.

June 13, 1933.

Hon. Robert B. Hougham, Executive Secretary,
Indiana State Teachers' Retirement Fund Board,
Indianapolis, Indiana.

Dear Sir:
I have before me your letter in which you state that the teachers' retirement fund board in its recent meeting on June 2, adopted the following resolution:

"That the executive secretary be empowered to cooperate with the state board of accounts in installing a new system of accounting with reference to payments from and to teacher members of the fund, and that the executive secretary shall arrange for the purchase of equipment necessary to put such system into operation. Said action to be taken as soon as possible."

You advise that in carrying out the above resolution, the additional necessary expense will in all probability exceed the 1933 appropriation for equipment and personal service. You
request an opinion as to whether in the administration of the teachers' retirement fund act, the board is limited to the amount of money appropriated as set out in the Biennial Appropriation Act.

In an official opinion addressed to your predecessor under date of November 17, 1930, the following question was under consideration:

"Is the fund required to ask for a legislative appropriation through the budget committee in view of the fact that a budget has already been submitted to the governor and tax board for a tax levy as required by the retirement fund law quoted above?"

After referring to various applicable statutes my predecessor advised that in his opinion the retirement fund board should make its budgetary requests to the budget committee in much the same manner as other departments, at the same time expressing the opinion that:

"When the tax levy for such purpose" (referring to the teachers' retirement fund levy) "is fixed by the state board of tax commissioners with the approval of the governor and auditor, the sum total thus raised is made available for that specific purpose and cannot be used for any other purpose."

I see no reason to overrule that opinion. However, I desire to point out to you that the Biennial Appropriation Act, in my opinion, provides sufficient elasticity to take care of the situation which you present. Section 8 of the Biennial Appropriation Act of 1938, provides that:

"In order to carry out the provisions of this act, the state board of finance is hereby given authority to make available any part of the annual appropriation, for the succeeding fiscal year, for operating expenses and equipment for any institution or department of state government: Provided, That such action shall be taken by the state board of finance only after such board has determined that an actual emergency exists for making such appropriations available from said appropriations for the succeeding fiscal year: and, Provided, further, That any institution or department of state government actually in need of having such ap-
propriations made available from the appropriations for the succeeding fiscal year shall submit to the state board of finance a statement showing the necessity therefor, the reason for such appropriation being exhausted and an itemized account of the expenditures made from such appropriation.”


As you will observe, the above provision authorizes the state board of finance to make available out of the 1934 appropriation for operating expenses and equipment, a sum sufficient to meet any emergency deficit which may occur in your 1933 appropriation. There are, I think, obvious reasons for following this procedure rather than the one suggested by your question.

INSURANCE COMMISSIONER: Agents for life insurance companies—whether license required for solicitation of applications preliminary to organization of assessment companies.

June 13, 1933.

Hon. Harry E. McClain,
Commissioner of Insurance,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter as follows:

“One of the requirements for the formation of an assessment life or accident insurance company under the Indiana act of 1897 is that applications for insurance be obtained from at least 200 persons.

“Will you please advise us whether we can require that the persons soliciting these qualifying applications, taken before the insurance organization has been licensed, be licensed by this department.”

The act of 1897, referred to by you, is chapter 195 of the Acts of 1897. (Acts of 1897, page 318.) An examination of section 1 of that act discloses that the requirement of applications for membership of not less than two hundred persons is one of the necessary requirements preliminary to the organization of the association.