TAX COMMISSIONERS, STATE BOARD OF: Township assessors, salaries of—Whether intangibles may be considered in fixing of such salaries.

July 13, 1936.

Albert F. Walsman, Commissioner,  
State Board of Tax Commissioners,  
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion construing the salary provisions of Section 136 of Chapter 59 of the Acts of 1919 with reference to the Intangibles Tax Act of 1933. Section 136, supra, is Section 64-1003 of Burns Indiana Statutes Annotated, 1933. The particular provision which you desire to have me consider is as follows:

"And provided, further, That each assessor in any township in this state containing a population of over one hundred thousand (100,000) and not over two hundred thousand (200,000), as shown by the last preceding United States census, or in any township where the assessed valuation, as shown by the last preceding assessment, amounts to thirty million dollars ($30,000,000) of taxables or more, shall receive for the time he is necessarily engaged in the discharge of his official duties, the annual salary of three thousand dollars ($3,000), and such payment shall be deemed payment in full for all services of whatever kind he shall perform as such assessor, he being required to keep his office open every working day in the year."

The particular question is as to whether valuations of intangibles for the purpose of imposing the intangibles tax may be considered in determining the "Assessed valuation" as that term is above used. I do not think intangibles can be thus considered in determining the salary of the township assessor. The Supreme Court has held that the intangibles tax is an excise tax as distinguished from a property tax. The tax is not imposed upon the intangibles in the ordinary sense of a property tax although its amount is determined upon a valuation basis. The tax imposed is for the right to exercise certain privileges inherent in intangibles. The provision of the 1919 Act which I am asked to construe clearly had refer-
ence to property valuation or property assessments in the ordinary sense of that term and in my opinion the amount of intangibles in a given township, if that amount could be accurately determined, could not be included in determining whether the "assessed valuation, as shown by the last preceding assessment, amounts to thirty million dollars ($30,000,000) of taxables or more."

ACCOUNTS, STATE BOARD OF: City controller may be treasurer of sanitary board and receive compensation therefor.

July 16, 1936.

Hon. Wm. P. Cosgrove,
State Examiner,
State Board of Accounts,
303 State House,
Indianapolis, Indiana.

Dear Sir:

This is in answer to your letter of July 8, requesting an opinion with respect to a situation that arises out of the operation of the new sewage treatment plant built pursuant to Chapter 61 of the Acts of 1932 by Michigan City.

The sewer and the sewage treatment plant are being operated and the revenue bonds, issued to build the plant, and interest thereon are being paid for by a monthly service charge against all the property owners that make use of the sewer. The charge to each user is measured by the amount of city water consumed on his property. The common council of the city passed an ordinance placing the custody, administration, operation and maintenance of the sewer system and disposal plant under the supervision and control of a sanitary board, composed of the mayor and two other persons named by the common council, one of whom is a registered professional engineer. This is in accordance with Section 16 of the 1932 Acts. Michigan City is a third class city with a population of 26,735.

The sanitary board desires to employ the city controller to act as treasurer of the sanitary board and to make collections for it from those who use the sewer service.