However, I think this provision is impliedly repealed by section 2 of Chapter 59 of the Acts of 1919 which provides that,—

"A poll tax shall be assessed upon every male inhabitant of this state between the ages of twenty-one and fifty years, and every person shall be listed for his poll tax in the township, town or city of his residence."

Acts of 1919, page 198;
Burns Indiana Statutes Annotated (1933) Section 64-102.

Your question is answered in the negative.

ENGINEERS, BOARD OF REGISTRATION FOR: Whether Board is limited in expenditures to appropriations provided in Biennial Appropriation Act.

February 13, 1936.

Hon. L. T. Gootee, Secretary,
Indiana State Board of Registration
for Professional Engineers and Land Surveyors,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion advising whether your Board is limited in its expenditures to the amount appropriated for it by the biennial appropriation act of 1935 in view of the provisions of section 9 of Chapter 148 of the Acts of 1935, approved March 7, 1935, and effective on July 1, 1935.

The biennial appropriation act was approved March 2, 1935, and was put into effect from and after its passage by virtue of an emergency declared in section 16 thereof. This Act made a specific appropriation for the Board; provided that all funds collected by the Board should be paid to the general fund of the state; and limited the specific appropriation to the amount of the fees collected.

Section 9 of Chapter 148 of the Acts of 1935 provides as follows:

"The secretary of the board shall receive and account for all money collected under the provision of
this act, and shall pay the same into the state treasury. All such money so collected shall be kept in a separate fund which shall be known as the ‘professional engineer’s fund,’ and shall be paid out only by warrant of the auditor of state, upon the treasurer of state, upon itemized vouchers approved by the chairman and attested by the secretary of the board. All money in the professional engineer’s fund is hereby specifically appropriated for the use of the board. All expenses which may be incurred by the board in the proper performance of its duties under this act, shall be paid out of the professional engineer’s fund. Under no circumstances shall the total amount of the warrants issued by the auditor of state in the payment of the expenses and compensation provided for in this act, exceed the amount of the examination, registration and renewal fees collected as provided herein. Such fund shall be continued from year to year and, except as hereinafter otherwise provided, shall be drawn against only for the purposes of this act. Whenever the net unencumbered balance in such fund, at the end of any fiscal year, exceeds the sum of three thousand dollars, such excess amount shall be transferred by the auditor of state to the general fund of the state treasury.”


In connection with the above provision Section 32 (b) of said Act should also be considered. Said Section 32 (b) provides as follows:

“Upon the taking effect of this act, any and all of the appropriations, funds, property and records of the state board of registration for professional engineers and land surveyors, as created by chapter 169 of the Acts of the General Assembly of 1921, shall ipso facto be and become the appropriations, funds, property and records of the state board of registration for professional engineers and land surveyors created by or authorized to serve under and administer and enforce the provisions of this act.”

It is clear that section 9 supra is in conflict with the biennial appropriation act of 1935 in more than one particular. First, the appropriation act, complying with the General Fund Act of 1925 requires all fees collected to be paid to the general fund of the state. Acts of 1935, page 363. Section 9 supra provides only that said fees are to be paid into the state treasury and kept in a separate fund to be known as the "professional engineer's fund." Acts of 1935, page 514. Moreover, the biennial appropriation act makes a specific appropriation,—that is specific in amount, limiting it, however, to the amount of the collections. Section 9 on the other hand makes no appropriation specific in amount but appropriates the entire collections for the use of the Board and provides for a transfer of surpluses above $3000 to the general fund only at the close of the fiscal year.

It seems to me that these conflicts are irreconcilable, and in harmony with well recognized rules of construction, the later act will be held to impliedly repeal the conflicting provisions of the former, unless the provisions of section 32 (b) supra is held to require a different conclusion. After careful consideration of the provisions of section 32 (b), I am of the opinion that the same do not require a change in the application of the above rule. I think the purpose of section 32 (b) was not to limit the Board to the previous appropriations as set out in the biennial appropriation act notwithstanding Section 9 supra, but was to turn over to the Board as provided in the new act all the property and records of the Board as it existed under the old act. The term "appropriations" as used in said section 32 (b) seems not to have been very accurately used, but when Section 9 supra is construed with section 32 (b), I think the intent is fairly clear and ascertainable. In my opinion section 9 of Chapter 148 supra constitutes a sufficient appropriation of the "professional engineer's fund" and furnishes the applicable limitation upon the expenditures of the Board.