is no legal contract, there is no right to reimbursement under the state school relief law. The same is true as to the distribution of funds transferred to the school tuition fund from the general fund of the state, pursuant to sections 28-1001 and 28-1002 of Burns’ Indiana Statutes Annotated 1933, Supplement of June, 1938. This distribution is based upon the number of legally licensed instructors employed and engaged in the work of instruction. The amount of this fund distributed to any particular unit would have to be based upon the number of teachers legally employed. Those who are not legally employed could not be considered. With the above exceptions I think your fourth question should be answered in the negative. The answer to the fifth question is in the affirmative.

CONSERVATION, DEPARTMENT OF: Notary public. State employe not entitled to payment of bond from public funds.

August 19, 1938.

Hon. Kenneth M. Kunkel,
Director, Division of Fish and Game,
Conservation Department,
State of Indiana,
Indianapolis, Indiana.

Dear Mr. Kunkel:

This will acknowledge receipt of your letter of August 18, in which you ask for an opinion as to whether or not the state may pay the costs necessary to the appointment of an employee in your department to act as notary public.

In reply to this question, your attention is called to section 49-115 of Burns’ Indiana Statutes, 1933 Revision, which provides that:

“Every public official in the State of Indiana, elected or appointed to any public office, employment or position of trust, * * * who, by virtue of the provisions of any law of this state, * * * is required to execute and furnish a bond or other like obligation, conditioned for the faithful discharge and performance of the duties of the office, employment or position to which such public official or employee shall have been or shall be elected
or appointed, * * * may procure such bond or other like obligation, so required by law, or ordinance, from a surety company * * *.”

Section 49-116 of Burns’ Indiana Statutes, 1933 Revision, provides:

“The cost of any such bond or other like obligation so procured, if furnished by a state officer or employee, shall be paid out of the general fund of the state treasury; * * *”

This is the only statute dealing with costs for official bonds. It will be noted that the statute is limited to public officials who are elected or appointed to any public office, employment or position of trust and who are required by law to give a bond conditioned for the faithful discharge of the duties of the office, employment or position to which they have been elected or appointed.

It is obvious, therefore, that one doing general clerical work in the state department is not required to be a notary public under the law governing their election or appointment. A bond is therefore not conditioned upon the faithful discharge of their duties as an employee of the state. A bond is required because of their duties as a notary public.

It does not help the situation any to suggest the appointment as notary public of one who might be deemed a public officer, rather than an employee, for we are then to meet with the provisions of section 49-3501, which provides that:

“No person holding any lucrative office shall be a notary public * * *.”

I can find no statutory authority, therefore, which authorizes the payment out of public funds of the costs incident to the appointment of a state employee as a notary public.