which might arise unexpectedly, and as to which the additional cost of advertising would be more than could reasonably be expected to be saved by issuing a notice. There may be other cases where replacements required are of such character as to practically eliminate the possibility of competition. There perhaps might be an emergency factor which would enter into the matter so as to make the publication of the notice required by the statute in the case of institutions impracticable. With these observations, I desire now to notice your specific questions. Answering your first question, I think that in the case of the institutions referred to above, public notice should be given in all cases unless the same is found to be impracticable. In giving a public notice, answering your second and third questions, you should follow the statute referred to earlier in the opinion, the same being section 22-105 of Burns' Indiana Statutes Annotated (1933), which requires that the notice should be given in two leading newspapers in the county in which the institution is located. The form of the notice should be sufficient to apprise the bidder of the materials or supplies to be furnished, the terms upon which they are to be furnished and should include such other descriptive matters as will place all bidders on a substantially equal basis. As to the departments of the state government, other than institutions, there does not seem to be any specific requirement for the publication in a newspaper of a notice to bidders, and I think your department would, therefore, in such cases have the right to exercise its discretion as to the best method to be used to obtain competition, but, unless impracticable to do so, competitive bidding should in all cases be provided for.

HEALTH, STATE BOARD OF: Salary of inspector of weights and measures in Knox County, whether duty of county to appropriate same.

October 15, 1938.

Dr. Verne K. Harvey, Director,
State Board of Health,
Indianapolis, Indiana.

Dear Doctor Harvey:

I have before me your letter, which, in part, is as follows:

"Knox County, which has a population of approxi-
mately 44,000, has a county inspector of weights and measures whose salary has been $1,500.00 per annum and expenses in the sum of $400.00 have been allowed for traveling and for office. The Board of County Commissioners of Knox County unanimously requested in their budget this year that said sums be appropriated for his salary and expenses. The Common Council of Knox County unanimously approved this request and appropriated the above amounts for said office. Thereafter, the County Tax Adjustment Board voted to discontinue all of said above appropriation for the year 1939."

Based upon the above statement, you submit the following question:

"Is the action of the Knox County Tax Adjustment Board valid, or is it null and void?"

Section 69-104 of Burns' Indiana Statutes Annotated (1933) provides, in part, as follows:

"The board of commissioners of every county of thirty thousand (30,000) population or more shall, and the board of commissioners of any county of less than thirty thousand (30,000) population may appoint a county inspector of weights and measures. No person shall be appointed as a county inspector of weights and measures in any county unless such person shall have been approved by the state commissioner of weights and measures, and no county inspector of weights and measures in any county shall be removed by the board of commissioners without the approval and consent of the state commissioner of weights and measures. The compensation of a county inspector of weights and measures in counties of thirty thousand (30,000) population or more shall be not less than twelve hundred dollars ($1,200) per year, and in counties having a population of less than thirty thousand (30,000), the compensation of the county inspector of weights and measures shall be not to exceed five dollars ($5.00) per day, to be determined by the board and to be paid out of the county treasury: Provided, however, that it shall not be obligatory upon the board of county
commissioners of such counties containing a city or cities of the first, second or third class which are already provided with an inspector of weights and measures or city sealers, to make such appointments. The board shall provide the necessary apparatus and supplies for the said inspector of weights and measures and the county councils of such counties shall appropriate such sums of money as are necessary for the salary and maintenance of the office.” (Our italics.)

Under the circumstances set out by you, there was a mandatory duty upon the board of commissioners to appoint an inspector of weights and measures of Knox County and the county council was required by the statute to appropriate "such sums of money as are necessary for the salary and maintenance of the office." The statute above quoted further provides that the amount of the salary, subject to the limitation that it should not be less than $1,200 per year, in a case such as you describe, is to be determined by the board of commissioners.

This department has repeatedly held that neither the State Board of Tax Commissioners nor the County Tax Adjustment Board has any power to reduce the salary of an officer which has been fixed by statute or has been fixed pursuant to statute. It follows that the action of the County Tax Adjustment Board in the case described by you, insofar as it applies to the salary of the officer, would not have the effect of reducing the salary nor would it limit the officer in the ultimate recovery from the county of salary earned by him as such officer.

As to the expense item, the County Tax Adjustment Board apparently would have authority to examine the budget for that particular item. This, however, does not decide the question as to what effect is to be given to the action of the County Tax Adjustment Board in entirely eliminating the provision for the salary of the officer named. The statute governing the action of the County Tax Adjustment Board does not expressly exclude from consideration by such board anything other than the items described in Section 6 of Chapter 119 of the Acts of 1937. It seems to me, however, that it is not reasonable to suppose that the legislature intended that this administrative board should have the authority to nullify
an item in an appropriation which it is the mandatory duty of another body to make.

It is my opinion, therefore, that insofar as their action sought to eliminate the appropriation for the legally fixed salary of the inspector of weights and measures in the county referred to, that such action was wholly unauthorized.

It may be that the disbursing officers of the county, as a matter of protection, would require the restoration of the appropriation through some appropriate court action upon the basis that it is not the duty of a ministerial officer to determine at his hazard the legality of the action of the County Tax Adjustment Board. But it seems to be clear that there can be only one result to such litigation, that is, to hold that the County Tax Adjustment Board has no more authority over this particular officer’s salary than it does over the salary of other county officers which is fixed by statute.

LABOR, DIVISION OF: Student aid—National Youth Administration minors permit not required by school corporation.

October 15, 1938.

Mrs. Mary L. Garner,
Director, Bureau of Women and Children,
Division of Labor,
Indianapolis, Indiana.

Dear Mrs. Garner:

In reply to your letter of October 3 requesting a ruling, which request is set out as follows:

“The question has arisen as to the necessity of high school students, who are taking advantage of the National Youth Administration student aid employment designated as school aid. Does the federal aid in this case supersede our school attendance child labor law of 1921, Chapter 122? Should a school issuing officer issue a minor’s certificate of age to such minors employed part time under National Youth Administration?”

This request, I assume, is limited to the employment of high school students through the National Youth Administra-