Depository Act of 1937 does not prevent such investment to be made. It is noted that the Public Depository Act of 1937 does not expressly repeal these several acts authorizing the investing in certain cases of depreciation funds owned by municipally owned public utilities. The rule is well settled that implied repeals are not favored. Moreover, a general statute without negative words does not repeal the particular provision of a former statute on a special subject to which the general language of the later Act as it stood alone might be deemed to apply, unless the two statutes are irreconcilably inconsistent.


It seems to me that the Public Depository Act of 1937 is not in irreconcilable conflict with those provisions occurring in some of the laws authorizing municipalities to own public utilities whereby such municipally owned utilities are authorized to invest parts of the funds carried in the depreciation account, and your third question is answered accordingly.

ACCOUNTS, STATE BOARD OF: County hospitals, notice required for letting of contract for improvement.

December 6, 1938.

Hon. Wm. P. Cosgrove,
State Examiner,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion in answer to the following question:

Whether, under Section 3, Chapter 144 of the Acts of 1917 (sec. 22-3218, Burns' 1933), the board of trustees of the county hospital organized thereunder has the power to contract for the construction of an addition to an improvement of such hospital, and if so, whether such board of trustees is required to give six weeks' notice to bidders as is required by Section 2, Chapter 271 of the Acts of 1907 (sec. 26-2002, Burns'
1933) when it becomes necessary for a board of county commissioners to contract for a county building."

First, as to the power of the board of trustees of a county hospital organized pursuant to the provisions of Chapter 144 of the Acts of 1917 to contract for the construction of an addition to an improvement of such hospital, I call your attention to the fact that Section 3 of said Act, which is Burns' Indiana Statutes Annotated (1933), section 22-3218, provides, among other things, that "they" (referring to the hospital trustees) "shall have the exclusive control of the expenditure of all moneys collected to the credit of the hospital fund, and for the purchase of site or sites, the purchase or construction of any hospital building or buildings, and the supervision, care and custody of the grounds, rooms or buildings purchased, constructed, leased or set apart for that purpose." (Our italics.)

While the statute is not very clear as to the authority of the hospital trustees to actually effect the contract for the improvement, it seems to me that the above language is sufficiently broad to sustain that authority.

Your second question is as to whether the board of trustees is required to give six weeks' notice to bidders as required by section 26-2002 of Burns' Indiana Statutes Annotated (1933). This section is the section governing the boards of county commissioners in giving notice of invitation for bids to construct county buildings and bridges.

Section 7 of the Hospital Act, the same being section 22-3226 of Burns' Indiana Statutes Annotated (1933), provides that:

"No hospital buildings built, in whole or in part, from money derived from taxation shall be erected or constructed until the plans and specifications have been made therefor, approved by the board of state charities and adopted by the board of hospital trustees, and bids advertised for according to law as for other county public buildings."

We are thus required to look to section 26-2002 of Burns' Indiana Statutes Annotated (1933), already referred to, for the purpose of determining the necessary notice. That sec-
tion provides that when the contract is for the construction of a court house, jail or other county or township building, the notice shall be for at least six weeks. If the improvement is a bridge, the notice required is two weeks. Your question does not definitely state as to just what the character of the improvement is, except to refer to it as an addition, from which I assume that a building is contemplated. Upon that theory the notice required would be a six weeks notice.

LABOR, DIVISION OF: Applicability of wage and hour law in construction of streets.

December 8, 1938.

Hon. Thomas Hutson,
Director Division of Labor,
State House,
Indianapolis, Indiana.

Dear Sir:

On November 30, you requested an official opinion of me relative to whether or not a contractor who has contracted to do street construction work for a city is subject to the Indiana minimum wage law in the payment for work and labor in the construction of such streets.

The facts upon which your question is based are as follows:

"The property owners along a street needing repair or needing a new street circulate a petition and when a majority of the owners sign this petition it is presented to the City Council and they in turn advertise for bids whatever the work might be. When the job is completed a certain date is set and all property owners along the individual street where the repair or construction has taken place are notified that they may either pay their portion in cash or take the ten-year plan under the Barrett law system. After this date the amount of cash is deducted from the contract price and the remaining balance is covered by a bond issue against the properties adjoining this improvement. Then the bond and the cash payments are turned over