1970 O. A. G.

OFFICIAL OPINION NO. 3

February 17, 1970

Mr. Alan J. Fromuth, Director
Personnel Division
Department of Administration
803 State Office Building
Indianapolis, Indiana 46204

Dear Mr. Fromuth:

This is in response to your request for my Official Opinion pertaining to the payment of group insurance for State employees, more specifically asking for answers to five questions.

"1. Should the limits of payment for health insurance be considered as the cost of payment for single low option or as the $1,500,000 appropriation provided in House Bill 1091 in the event that the appropriation is sufficient to cover full cost of the single low option?

"2. Should we consider the partial payment of health insurance would be provided for all State employees or for only full-time employees, excluding part-time, temporary and intermittent employees?

"3. Should the Appropriations Act and the original Hospitalization Act be interpreted as indicating that only one group insurance contract will be signed for all State agencies and institutions, or that all State agencies and institutions wishing to participate in partial payment of group health insurance shall be under one contract?

"4. Do the Statutes of the Indiana General Assembly permit the establishment of a group life insurance plan for State employees?

"5. Would the Statute permit payment by the State (partial or full payment) for a group life plan providing funds have been allocated for this purpose?"

ANALYSIS

The pertinent portion of Acts of 1969, Ch. 397, Sec. 2h, which is the Appropriations Act, reads as follows:
"FOR THE STATE BUDGET AGENCY—

GROUP INSURANCE
CONTINGENCY FUND 1,500,000 1,500,000

"The above appropriation for Group Insurance Contingency Fund is for the full cost of single low option coverage of a common and unified plan of group insurance for all state employees.

"PROVIDED, That if any of the above contingency appropriations made in this act have any balances unexpended for the fiscal year ending June 30, 1970, then such unexpended balances shall not revert to the General Fund but shall be carried forward as an appropriation made for the 1970-71 fiscal year." (My emphasis)

The statute authorizing such appropriation is contained in Acts of 1963, Ch. 394, as amended, and found in Burns' (1969 Supp.), Sections 60-1365 to 60-1369, entitled "An act empowering the governing authorities of the State of Indiana, including all of its boards, commissions, departments, and establishments to contract for insurance in relation to its employees, and declaring an emergency." This Act governs, subject to the limitations of the appropriation bills.

The Legislature is deemed to have full cognizance of all existing laws, as was noted in 1959 O. A. G. No. 15, page 72.

In Stiers v. Muncy (1910), 174 Ind. 651, 92 N. E. 374, the Court said:

"It is a rule of statutory construction that if there is a conflict in the provisions of the same act, or between two acts passed at different times, the earliest in position or enactment is repealed by the latter."

While Acts of 1963, Ch. 394, supra, provides that "a portion of the cost of such group insurance may be paid or borne by such public employee," the 1969 Appropriations Bill clearly states that the appropriated fund is to be used for the "full cost of single low option coverage * * * for all state employees," which necessitates choosing a single low option
plan which will fall within the $1,500,000 maximum contained in the Act.

In regard to your second question, Burns' 60-1365, supra, reads as follows:

"'Employee' shall mean an elected or appointed officer or official, or a full-time employee, whose services have continued uninterruptedly for a period of at least thirty (30) days." (My emphasis)

This definition is incorporated into the Appropriations Act providing funds for the general group insurance plan.

Concerning your third question, the Appropriations Act provides funds for "a common and unified plan of group insurance for all state employees." This means that all full-time employees will be covered by a single group insurance contract, and a State agency may not take its aliquot share of the appropriations and apply it to its existing insurance contract. However, this does not preclude the State agencies and institutions from providing additional coverage for their employees as authorized by the Acts of 1963.

Research on your fourth and fifth questions, indicates that Burns' Section 60-1365, supra, provides in part, as follows:

"'Insurance' shall mean insurance upon or in relation to human beings in all of its forms, excluding life insurance, but including the following forms * * *

(My emphasis)

Since the enabling act for group insurance for State employees expressly excludes life insurance, no such public employer may participate in a group life insurance plan. Also, since a group life insurance plan with all premiums paid by the employees is not authorized by Section 166 of Acts of 1935, Ch. 162, as amended, and found in Burns' (1965 Repl.), Section 39-4221, such a plan may only be established for State employees by Legislative action.

CONCLUSION

1. The appropriated fund for health insurance must be used for a single low option plan which would fall within the
$1,500,000 maximum annual appropriation contained in the Act.

2. Health insurance can be provided only for full-time employees.

3. The Appropriations Act must be interpreted to indicate only one group insurance contract will be signed.

4. The answer to your fourth and fifth questions is "no." Life insurance is specifically excluded by statute.