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lated cases not falling within its provisions.' 50 Am. Jur. Statutes, § 229 pp. 214, 215, 216. See also 59 C.J. Statutes, § 569, pp. 953 to 958. *Bettenbrock v. Miller* (1916), 185 Ind. 600, 606, 112 N.E. 771."

Thus, the fact that the statutory definition of "capital improvement" specifically refers, though is not limited, to the construction or improvement of streets, thoroughfares and sewers, according to the rule of *expressio unius est exclusio alterius*, would seemingly require that said act should be construed as meaning that the class of "construction or improvement" to which the Legislature was referring is of the same class as streets, thoroughfares and sewers—in other words, construction upon and improvement of real estate. This interpretation, of course, excludes the concept that the Legislature intended a broad interpretation whereby such fund could be used for the acquisition of personal property.

Therefore, in conclusion, it is my opinion that the term "capital improvement," as used in §§ 27d, 27c (1) (c) and defined in § 27(f) of the Cigarette Tax Act, as amended by the Acts of 1965, ch. 225, does *not* contemplate the purchase of "major movable equipment" or any other personal property, and that the use of such fund for such purposes would be contrary to the express restrictive authority of the act.

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OFFICIAL OPINION NO. 33

August 19, 1965

Mr. Richard L. Worley, State Examiner  
State Board of Accounts  
912 State Office Building  
Indianapolis, Indiana

Dear Mr. Worley:

I have your letter requesting an Official Opinion, as follows:

"According to Chapter 307, Acts of 1965, Section 304, the treasurer of a school corporation shall give bond for the faithful performance of his duties written by an insurance company licensed to do business in

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the state of Indiana, in an amount determined by the governing body. However, according to Chapter 307, Acts of 1961, (Burns 28-2484a), the treasurer shall give bond for the faithful performance of his duties in an amount not less than the greatest sum of money that may come into his hands at any one time by virtue of his office, all to the satisfaction of the county auditor of the county in which the treasurer resides.

"In view of these statutes, and other related statutes, your official opinion is respectfully requested on the following questions:

"1. May the board of school trustees fix the treasurer's bond in any amount, or must the amount of the bond be not less than the greatest sum of money that may come into the treasurer's hands at any one time by virtue of his office?

"2. Does the board of school trustees approve the treasurer's bond, or must his bond be approved by the county auditor of the county wherein the treasurer resides?

"3. If your answer to question number 2 is in the affirmative, and the county auditor refuses to approve the amount of the bond fixed by the board, who has the authority to fix a greater amount for the bond?"

Acts of 1965, ch. 307, § 304, as found in Burns IND. STAT. ANN., § 28-6420 (1965 Supp.), provides as follows:

"For the school year commencing July 1, 1965, the treasurer of each governing body shall give a bond for the faithful performance of his duties written by an insurance company licensed to do business in the state of Indiana, in an amount determined by the governing body."

The clarity of the language used in Acts 1965, ch. 307, § 304, *supra*, is such that it becomes self-evident that the treasurer of each governing body (defined by Section 103 of the act as the board or commission charged with the responsibility of administering the affairs of the school corporation), shall

give a bond for the faithful performance of his duties and that the amount thereof is to be determined by the governing body. This section of the act only has three requirements, (1) that the treasurer give a bond, (2) that said bond be written by an insurance company licensed to do business in Indiana, and (3) that the amount of the bond be determined by the governing body. This section does not require the bond to be approved otherwise.

Your letter makes mention of Acts of 1961, ch. 307, as found in Burns IND. STAT. ANN., §§ 28-2484 and 28-2484a (1964 Supp.), dealing with matters not here in issue and providing in part, as follows:

“ . . . The treasurer shall give bond for the faithful performance of his duties in an amount not less than the greatest sum of money that may come into his hands at any one time by virtue of his office, all to the satisfaction of the county auditor of the county in which the treasurer resides.”

Acts of 1965, ch. 307, § 303, as found in Burns IND. STAT. ANN., § 28-6419 (1965 Supp.), among other matters provides by subsection (3) that “Acts 1961, ch. 307 (Sections 28-2484, 28-2484a) is hereby repealed.” Subsection (4) of the same section provides that the whole section (section 303) shall “not be applicable to a school city of the first class or to a school corporation succeeding to all or the major part in area of such school city.” Thus, the question arises as to whether the repeal of Acts 1961, ch. 307, is repealed as to a school city of the first class. However, it appears unnecessary to answer that question, since another part of the 1965 Act has also repealed the 1961 Act.

Acts of 1965, ch. 307, as found in Burns IND. STAT. ANN., §§ 28-6401—28-6451 (1965 Supp.), provides by sections 601 and 602 that section 304, *supra*, requiring the treasurer of each governing body to give a bond, is by way of limitation of the powers of such body and that all laws in conflict with the provisions of the act, are repealed to the extent of such conflict.

The 1965 Act with its sections here being considered deals with the same subjects and the procedures therefor as did

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Acts of 1961, ch. 307, as found in Burns IND. STAT. ANN., §§ 28-2484 and 28-2484(a), (1964 Supp.), and Section 304 of the 1965 Act provides another manner for determining the amount of the treasurer's bond which is in conflict with and inconsistent with the provisions of the 1961 Act, repealing the latter by implication. *Watson v. Strohl*, 220 Ind. 672, 46 N.E.2d 204 (1943); 26 I.L.E., Statutes, § 84, pp. 295, 296.

Thus, in answer to your questions, it is my opinion that the governing body of each school corporation and as such, the Board of School Trustees must determine the amount of and approve its treasurer's bond with the amount thereof not being specified by statute. With the repeal of Acts 1961, ch. 307, I know of no statute requiring that a county auditor must also fix the amount of the bond and approve the bond, nor do I know of a statute which confers such duties on other than the governing body of a school corporation.

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### OFFICIAL OPINION NO. 34

August 20, 1965

Hon. Roger D. Branigin  
Governor of Indiana  
206 State House  
Indianapolis, Indiana 46204

Dear Governor Branigin:

A memorandum from your office dated July 8, 1965, requests an Opinion as to whether the Congressional districts created by Chapter 205, Indiana Acts 1965, are presently in effect insofar as appointments to boards and commissions are concerned. The memorandum points out that statutes creating many boards and commissions require that Congressional districts be observed in giving such boards or commissions geographical balance.

Article 1, section 4, of the United States Constitution, provides:

"The times, places and manner of holding elections for senators and representatives, shall be prescribed