From the above authorities I must conclude that government securities acquired under the provisions of Burns' 61-677, supra, are public funds within the meaning of the Public Depository Law and must be deposited pursuant thereto, with the exception of securities in the hands of the Treasurer of State. As above noted Burns' 49-1824, supra, allows the Treasurer of State to place securities in safety deposit boxes or vaults of banks located in the State of Indiana or to place the securities in the hands of banks or trust companies as custodian. Burns' 49-1824, supra, constitutes an exception to the provisions of the Public Depository Law; however, if the Treasurer of State does not choose to deposit securities in safety deposit boxes or place such securities in the hands of banks or trust companies as custodian, he must necessarily comply with the Public Depository Law with respect to such securities. Therefore, in view of the fact that securities purchased pursuant to Burns' 61-677, supra, are public funds within the Public Depository Law, it is my opinion that the Treasurer of State and the treasurers of the several subdivisions of local government have authority to accept safekeeping receipts or other appropriate receipt evidencing the deposit of such securities in any authorized public depository in lieu of actual custody of securities acquired under the provisions of Burns' 61-677, supra, and such receipts must be issued directly to the Treasurer by the public depository. Your questions Nos. 1, 2, and 3 must therefore be answered in the affirmative, with the qualification that the public depository issuing the safekeeping receipt must be one so designated and authorized to accept public funds by the procedure provided by the Public Depository Law.

Mr. Jay L. Foster
State Fire Marshal
145 West Washington Street
Indianapolis 4, Indiana

Dear Mr. Foster:

In your letter of January 4, 1960, you requested my Official Opinion concerning Acts of 1913, Ch. 192, Sec. 13, as found
1960 O. A. G.

in Burns’ (1950 Repl.), Section 20-813. Your letter reads, in part, as follows:

“I would like to know the status of a fire chief in a city with a population of less than 5,000 who is considered a local assistant of the State Fire Marshal, said person receiving a salary from the local unit of government, as to whether he is entitled to receive 50¢ for each report of each separate fire rendered to my office and the sum of 15¢ for each mile traveled to the place of fire, plus the possibility of an additional sum not to exceed Two Dollars ($2.00) for each day’s service spent in such investigation depending upon the discretion of this office.

“It would be appreciated if you would present an opinion as soon as possible paying particular attention to the differentiation of a salary from the ‘State of Indiana’ and one from a local unit of government.”

Burns’ 20-813, supra, which provides for the fee in question reads as follows:

“Except in cities having over five thousand [5,000] inhabitants, according to the last preceding United States census, all local assistants of the state fire marshal not receiving a salary from the state of Indiana, upon the audit of the state fire marshal, shall receive fifty cents [50¢] for each report of each separate fire reported to the state fire marshal under the provisions of this act, and, in addition, there shall be paid to the chiefs of the fire departments, or to the clerk of each incorporated town, or to the township trustee of each township without the limits of an incorporated city or town, whose duty it shall have been to make and who actually made the investigation, the sum of fifteen cents [15¢] for each mile traveled, to the place of fire, and, in the discretion of the state fire marshal, where an investigation has been had, a sum not to exceed two dollars [$2.00] for each day’s service spent in such investigation.”

The above section refers to “all local assistants of the state fire marshal not receiving a salary from the state of Indiana.”
From a reading of the statute concerning the creation of the office of State Fire Marshal, its powers and duties, it is clear that the statute provides for two types of "assistants." Acts of 1913, Ch. 192, Sec. 3, as found in Burns' (1950 Repl.), Section 20-803, authorizes the State Fire Marshal to "appoint in writing such other deputy state fire marshals, and such clerks, assistants and employees as shall be needed by him in the performance of the duties of his office or the carrying on of the work of the department." (Our emphasis) The 1959 Legislature, in its appropriation bill, which is Acts of 1959, Ch. 114, Sec. 2, appropriated the amount of $93,855.00 for each of the fiscal years of 1959-1960 and 1960-1961 as a part of the appropriation for the State Fire Marshal. Such amount is designated for "Personal Service." It is from this appropriation that the salaries of the assistants as designated in Burns' 20-803, supra, are paid.

In addition to the above named assistants, Section 4 of the Acts of 1913, Ch. 192, as found in Burns' (1950 Repl.), Section 20-804, provides as follows:

"All municipal fire marshals in those municipalities having such officers, and, where no such officer exists, the chief of the fire department of every incorporated city or town in which a fire department is established, the clerk of each incorporated town in which no fire department exists, and the township trustee of each township for the territory of said township lying outside of the corporate limits of any city or town, shall be, by virtue of said office so held by them, assistants to the state fire marshal and subject to the duties and obligations imposed by this act, and shall be subject to the directions of the state fire marshal in the execution of the provisions hereof. Immediately upon taking office, the state fire marshal shall prepare instructions to the assistants designated herein and forms for their use in the reports required by this act, and cause them to be printed and sent, together with a copy of this act, to each such officer located in this state."

Section 5 of this Act, as amended, and as found in Burns' (1950 Repl.), Section 20-805, requires a written report by such local assistants to the State Fire Marshal of every fire in this state.
When we consider the provisions of Burns' 20-803, *supra*, which authorizes the State Fire Marshal to appoint, among others, certain assistants to assist him in the performance of the duties of his office and the work of the department, together with the provisions of Burns' 20-804, *supra*, specifying certain local officers as assistants to the State Fire Marshal, it is clear that the language "local assistants to the state fire marshal" appearing in Burns' 20-813, *supra*, refers to those assistants enumerated in Burns' 20-804, *supra*. It is also clear that the various municipal officers enumerated in Burns' 20-804, *supra*, receive their salaries from their own municipalities as distinguished from the assistants appointed by the State Fire Marshal whose salaries are paid by the state.

Therefore, in answer to your question, it is my opinion that pursuant to Burns' 20-813, *supra*, a fire chief in a city with a population of five thousand or less, who is performing the duties of an assistant to the State Fire Marshal pursuant to Burns' 20-804, *supra*, must receive fifty cents for each report of each separate fire reported to the State Fire Marshal and, in addition, he is entitled to the sum of fifteen cents for each mile traveled to the place of fire. Such fire chief may also, in the discretion of the State Fire Marshal, receive a sum not to exceed two dollars for each day's service spent in the investigation of such fire.

OFFICIAL OPINION NO. 8

February 4, 1960

Mr. John R. Peters, Chairman
State Highway Department
State House Annex
Indianapolis, Indiana

Dear Mr. Peters:

This is in reply to your letter of January 19, 1960, requesting an Official Opinion concerning the receipt of bids by the State Highway Department for the construction, reconstruction, resurfacing or improvement of highways. As indicated in your letter the applicable statutory material is found in the Acts of 1941, Ch. 12, Sec. 11, as amended, as found in Burns' (1949 Repl.), Section 36-170 which reads, in part, as follows: