tion, and therefore Mr. Z is now entitled to credit for such past service upon filing his application and proof of service as prescribed by Burns' 60-1932, supra.

By way of conclusion and in answer to your first question, I would state that it is my opinion for the reasons stated earlier that the Public Employes' Retirement Fund cannot recognize service performed for the Public Service Commission by Mr. X under the circumstances you described. Nor can the Public Employes' Retirement Fund give credit to Mr. Y, described in your second question, for the period of time he served in the Indiana General Assembly. However, Mr. Z, discussed in your final question, is entitled to credit from the Public Employes' Retirement Fund for the past years of service as described in your letter. The conclusions reached in this Opinion are to be restricted to the fact situations involved and not extended to other situations where the circumstances are different in any way.

OFFICIAL OPINION NO. 17

April 21, 1960

Hon. William G. Greif
State Representative
511 National Bank Building
Evansville, Indiana

Dear Representative Greif:

This will acknowledge receipt of your letter of March 18, 1960, wherein you request an Official Opinion relative to the reassessment of land and improvements provided for in the Acts of 1959. In your letter you state:

"A number of people and organizations in this area favor the assessors engaging a professional appraisal firm to appraise the entire county for this required assessment. The question has been raised as to whether Chapter 316, Acts of 1959 permits such action on the part of the assessors."

In your letter, you have listed your questions as follows:
“1. Does Chapter 316, Acts of 1959 allow or contemplate that assessors may contract with qualified appraisal firms to appraise all land and improvements within a county?

“2. If the above question is answered in the affirmative, then is it necessary for the assessors to deputize employees of an appraisal firm who would be employed to make the necessary inspections of improvements in the field and gather all pertinent data connected therewith on the prescribed forms as the basis of determining the appraised value of a specific piece of property?

“3. What is your opinion on the proper procedure to be followed by the assessors in actually engaging a professional appraisal firm assuming it is legal to do so?”

In the administration of property tax laws, one of the major functions of township government in Indiana is the assessment of property. In townships of more than 5,000 population this duty is assigned to the township assessor and in townships of 5,000 or less population, the assessor’s duties are placed upon the township trustee. Numerically, there are 1,009 townships in the state, ranging from a total of four townships in Blackford and Ohio Counties to a total of 21 in LaPorte County; varying in population from 233 in Monroe Township of Jefferson County to 337,211 in Center Township of Marion County (1950 U. S. Census), the lands of which differ in occupational use from those townships almost exclusively devoted to agriculture to some of the most highly industrialized areas in the nation. I am not unmindful of the varying complexity of problems arising on assessment and reassessment of property and the importance of obtaining a just and proper assessment or reassessment for all taxpayers.

Your question No. 1 clearly states the point at issue in the instant case, namely, whether assessors may contract with qualified appraisal firms to appraise all land and improvements within a county.

The Acts of 1959, Ch. 316, as found in Burns’ (1959 Supp.), Sections 64-1019 to 64-1019 (1), inclusive, is an amendatory
act to the original act found in the Acts of 1919, Ch. 59, and subsequent amendments thereto. An examination of the following sections of the 1959 Act are essential in a consideration of your questions:

64-1019. "All assessments of real estate and the improvements thereon shall be made pursuant to the provisions of this act. A reassessment, for taxation purposes, of all real estate and the improvements thereon shall be made in the year 1961 and every eight [8] years thereafter; and any such reassessment shall be the basis for the taxes levied on real estate and the improvements thereon for the next succeeding year and until another reassessment has been made. The reassessment shall be made by the duly constituted taxing officials under the general supervision of the state board of tax commissioners, and at such time as may be ordered and directed by such board. Each person charged with the duty of making assessment valuations for taxation shall correct all errors of assessment of real estate which he may discover on the books either in the name of the person to whom the property is assessed or by change of ownership or in the description of the property or otherwise. * * *"

(Our emphasis)

64-1019h. "In making any periodical reassessment of real estate pursuant to the provisions of this act, the county and township assessors shall be authorized to employ such deputies and employees as may be necessary for the purpose of collecting and recording the field data required to classify and determine the just valuation of real estate and the improvements thereon in accordance with rules, regulations, forms and standards officially adopted and promulgated by the state board of tax commissioners. The county and township assessors shall also be authorized to employ technical advisers who are qualified to determine values of lands and improvements thereon, either on a full time basis or a part time basis. The number of such deputies and employees, and the rate of com-
Compensation paid for their services shall be governed by the laws of the state: Provided, That the state board of tax commissioners may, upon the petition of any county or township assessor, determine by written order that such special services are required which cannot be obtained on the basis of compensation provided by law, and may authorize the payment of a higher compensation commensurate with the special services required. Such additional funds as are required by the provisions of this section may be appropriated by the respective county councils.” (Our emphasis)

64-1019j. “In making any periodical reassessment of real estate pursuant to the provisions of this act, each township assessor shall begin the reassessment on January 1 of the reassessment year and shall complete his work on such reassessment and make a return to the county auditor, as now provided by law, on or before April 1 of the next succeeding year. * * *” (Our emphasis)

Your questions involve a matter of statutory construction. In Indiana Law Encyclopedia, Vol. 26, Statutes, § 122, pages 329, 330, it is stated that:

“In construing a statute to ascertain the legislative intent, the act should be construed as a whole or in its entirety, each section being considered with reference to all other sections. A single statutory provision cannot be construed standing alone, and must be construed in the light of the entire act to which it applies. The legislative intent is to be gathered from the entire act rather than from any one part thereof, since courts will not look to isolated clauses, but to the entire statute, to ascertain the intention of the Legislature.

“All parts, provisions, or sections of a statute must be read, considered, or construed together, so as to make it harmonize and consistent in all its parts, and to give effect, if possible, to all such parts.”

See also: City of Indianapolis v. Evans (1940), 216 Ind. 555, 567, 24 N. E. (2d) 776;
It is the prime purpose of any statutory construction to ascertain the intent of the Legislature and once determined to give full effect to such intention.

State ex rel. Davenport v. International Harvester Co. (1939), 216 Ind. 463, 25 N. E. (2d) 242;

State ex rel. School City of South Bend v. Thompson, Auditor et al. (1937), 211 Ind. 267, 6 N. E. (2d) 710;


In Indiana Law Encyclopedia, Vol. 26, Statutes, § 161, pages 358, 359, it is stated:

"Amendments are to be construed together with the original act to which they relate as constituting one law, and as part of the original act, and also with other statutes on the same subject or relative subjects, whether in force or repealed. The provisions of the amendatory and amended acts are to be harmonized, if possible, so as to give effect to each, and leave no clause of either inoperative, * * * ."

The taxing official specifically designated as primarily responsible for making the reassessment in each township is shown by Burns' 64-1019j, supra, to be the township assessor. It is noteworthy that in no instance is any wording shown whereby a county assessor may relieve or override the primary responsibility of a township assessor for making the reassessments in his particular township.

The authority for the employment of deputies and employees to assist assessing, is not new. Provision was so made by Section 135 in the Acts of 1919, Ch. 59, as found in Burns' (1951 Repl.), Section 64-1002. In the former Reassessment Act of 1949, as found in the Acts of 1949, Ch. 225, Sec. 7, provision was made whereby county and township assessors were empowered to employ deputies, employees and technical advisers, through the use of language almost identical to that
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used by the Legislature in the 1959 Acts, as shown in Burns' 64-1019h, *supra*.

The addition of the provision in the 1949 Act and the 1959 Act authorizing the employment of "technical advisers" seems but a logically progressive step in view of the growth of the state not only in population, but in industrial development.

The Acts of 1959, Ch. 316, added new and additional sections to Acts of 1919, Ch. 59, *supra*. Certain of these new sections, to which I refer in this paragraph, have been designated as Sections 152a, 152b, 152c, 152e and 152i, as found in Burns' (1959 Supp.), Sections 64-1019c, 64-1019d, 64-1019e, 64-1019g and 64-1019k. These sections place a mandatory duty on the State Board of Tax Commissioners to prepare, adopt and promulgate rules, regulations, forms, standards and instructions to be followed by all local taxing officials in making any original assessment or reassessment prescribed by law. A mandatory duty is also placed on all local taxing officials to comply with the rules, regulations, forms and standards officially adopted and promulgated by the State Board of Tax Commissioners. Provision is also made as shown by Burns' 64-1019k, *supra*, for schools of instruction and instructional meetings to be conducted by the state board, the section reading, in part, as follows:

"* * * The state board of tax commissioners shall hold and prescribe such course of instruction for local assessing officials and their employees as it may deem necessary and proper." (Our emphasis)

A study of the section cited in the paragraph immediately preceding indicates an earnest attempt on the part of the Legislature, as stated in Acts of 1959, Ch. 316, Sec. 11, as found in Burns' (1959 Supp.), Section 64-1019 (l), to achieve "a more scientific and exact basis for a uniform and equal rate of assessment and a just valuation of real estate for taxation." Throughout the 1959 Act, as was the case in the Reassessment Act of 1949, it is clearly apparent that the prime objective was to provide the maximum in instructions and training of local taxing officials and their employees. Here again, the language employed in the 1959 and 1949 Acts is almost identical as it pertains to rules, regulations, methods, instructions, and training of such officials and employees.
There is no mention in the Acts of 1959, Ch. 316, *supra*, of any right of contract such as suggested in your letter. If any such right were to exist, Burns' 64-1019h, *supra*, is the only section that could possibly lend support to an affirmative answer to your first question as to whether a contract could be made "with qualified appraiser firms to appraise all land and improvements within a county." (Our emphasis) Let us examine this section in two parts, namely: first, all that portion of the section down to the word "Provided"; and, secondly, the balance of the section commencing with the word "Provided."

In the first part of Burns' 64-1019h, *supra*, preceding the word "Provided," the Legislature authorized county and township assessors "to employ such deputies and employees as may be necessary for the purpose of collecting and recording the field data" and "to employ technical advisers who are qualified to determine the values of lands and improvements * * *." The phrase "who are qualified to determine values of lands and improvements" following the words "technical advisers" is merely a phrase providing the eligibility requirements of such employee advisers by requiring that they be competent to determine valuations of lands and improvements. However, this is clearly only an eligibility requirement precedent to employment and does not purport to authorize such technical advisers to fix the assessed valuation of lands and improvements as such employees. The words "technical advisers" further supplement this construction. Under the express statutory provisions of 2 R. S. 1852, Ch. 17, Sec. 1, as found in Burns' (1956 Repl.), Section 1-201, words and phrases will be taken in their plain, ordinary or usual sense unless a different purpose is clearly manifested by the statute itself. But, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import. The common and accepted meaning of the words "advise" and "adviser" can be found from the following:

Webster's New World Dictionary, College Edition, page 21, states:

"Adviser. One who advises. * * *"

"Advise. To give advice to; counsel; recommend; inform; consult; advise implies the making of rec-
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commendations as to a course of action by someone with actual or supposed knowledge or experience.”


“Advise. To give an opinion or counsel, or recommend a plan or a course of action.”


“Advise. To advise is to give advice to; to offer an opinion as worthy or expedient to be followed; to counsel.”

Therefore, from the above definitions, it is apparent that the phrase “technical advisers” indicates those able to give advice or counsel on technical matters. There is no implication in the use of such words to indicate any intent by the Legislature to relieve a township assessor or county assessor of their respective duties in connection with reassessment of property or any indication of intention that such “technical advisers” might or could supplant the assessors’ deputies and employees in the actual making of the reassessment “of all land and improvements within a county.”

In the second part of Burns’ 64-1019h, supra, commencing with the word “Provided” we find the following language:

“* * * Provided, That the state board of tax commissioners may, upon the petition of any county or township assessor, determine by written order that such special services are required which cannot be obtained on the basis of compensation provided by law, and may authorize the payment of a higher compensation commensurate with the special services required. Such additional funds as are required by the provisions of this section may be appropriated by the respective county councils.” (Our emphasis)

To interpret the above language as authorizing the right of contract with appraisal firms to appraise all land and improvements within a county, would be to take a far-reaching step in the assessment and reassessment of property as it has existed through the years in Indiana. To authorize such a
right of contract would be to enlarge, extend or expand the language of the statute to give taxing officials, including the State Board of Tax Commissioners, power to do an act not within the manifest intention of the statute. The statute marks the limit of the board's power, and if the board goes beyond the statute its acts are void. In view of the fact that the Acts of 1959, Ch. 316, supra, shows such attention to detail in its drafting, it is hard to conceive that had the Legislature intended to authorize a change as far-reaching as the right of contract suggested, it would not have said so in plain and explicit language. In my opinion, the italicized words concerning "such special services" can only have reference to compensation for "technical advisers" and also to "such deputies and employees as may be necessary." I find nothing in the statute that would warrant any other meaning.

In the case of Bell v. Meeker (1906), 39 Ind. App. 224, 233, 234, it is stated:

"The State Board of Tax Commissioners is a creature of the statute. The only authority it has relating to the assessment of property for taxation and equalizing assessments is to be derived from the statute. If the statute designates the subject-matter upon which it is to act it has jurisdiction only of such subject-matter. If the statute has classified property for the purposes of equalizing assessments, such classification is conclusive upon the board. It is immaterial that a different classification would bring about equally as good or perhaps better results. The board has no authority to determine for itself whether it will follow the statute, or disregard the statute and follow a method of its own. The statute marks the limit of its power, and if it goes beyond the statute its acts are void."

In the case of Poyser v. Stangland (1952), 230 Ind. 685, 689, 106 N. E. (2d) 390, it is said:

"* * * We cannot under the guise of construction, put something into a statute that the legislature apparently designedly omitted. The general rule has been stated, thus:

"The general rule is that nothing may be read into a statute which is not within the mani-
fest intention of the legislature as gathered from the act itself, and that a statute should not be construed any more broadly or given any greater effect than its terms require. Where the language of the statute is clear in limiting its application to a particular class of cases and leaves no room for doubt as to the intention of the legislature, there is no authority to transcend or add to the statute which may not be enlarged, stretched, or expanded, or extended to cognate or related cases not falling within its provisions.'


Therefore, for the reasons stated above, it is my opinion that the Acts of 1959, Ch. 316, supra, does not allow or contemplate that assessors may contract with qualified appraisal firms to appraise all lands and improvements within a county as stated in your first question. In view of the negative answer to your question No. 1, your questions No. 2 and No. 3 become moot and no answers are necessary thereto.

It is recognized that the constitutional goal of uniformity and equality of assessment is the basic purpose of the Acts of 1959, Ch. 316, as stated in Section 11 thereof, Burns’ 64-1019 (l), and that section emphasizes that the act is to be liberally construed to that end to provide “a more scientific and exact basis for a uniform and equal rate of assessment and a just valuation of real estate for taxation.” Therefore, the services of professional real estate appraisal firms should be assumed as aiding the purposes of the act.

Although it is my opinion that such a firm could not be contracted with to make the appraisement, nevertheless, the benefit of such a firm as an employee could be gained on that basis so long as the activities of such firm were confined merely to the inspection, the assembly of data and the making of recommendations. However, for the services of the same professional appraisal firm to be available for recommendation purposes on a county-wide basis would require that each town-
ship assessor within the county employ the same firm as his technical adviser, such firm being subject to the supervision and control of its employer, the township assessor, with respect to lands and improvements within such township.

Therefore, unless each township assessor within the county were to be agreeable to employ the same professional appraisal firm on an employee basis, the benefit to be obtained from the recommendation of such firm on a county-wide basis could not be derived since the authority to make the assessment is vested in the local township assessor who could not be required to employ the same professional appraisal firm as a technical adviser that his fellow township assessors within the county might choose to employ. If such a practice be contemplated, it can only be stated that any appraisal firm so employed would derive its powers from the township assessor and be subject to the control and supervision of the township assessor to the same extent as any other deputy assessor or employee of the assessor.

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OFFICIAL OPINION NO. 18

May 2, 1960

Hon. Robert S. Webb
Chairman, Public Service Commission
Room 401 State House
Indianapolis 4, Indiana

Dear Sir:

This is in answer to your recent request for my Opinion concerning the determination of an allowance for depreciation in arriving at a rate base for a public utility.

Your request includes four separate questions, the first two of which will be discussed together and are as follows:

"1. May the Commission provide an allowance for depreciation of the plant and property of a utility actually used and useful in rendering utility service to patrons where the plant and property were contributed to the utility corporation as a contribution in aid of construction, the contribution hav-