

SOCIAL SECURITY:

Appropriation for Child Welfare in
House Bill No. 500 was mistake, and
is a nullity.

LEGISLATURE:

July 27, 1937

7-28

Mr. George I. Haworth
Acting Administrator
State Social Security
Commission of Missouri
412 East High Street
Jefferson City, Missouri



Dear Sir:

This Department is in receipt of your request
for an opinion which reads as follows:

"In House Bill 500, Section 3, there
is appropriated to the Board of
Managers of the State Eleemosynary
Institutions out of the State
Treasury, chargeable to the federal
allotment funds received from the
United States Childrens Bureau, the
sum of \$90,000.

"In House Bill 520, Section 6, there
is appropriated to the State Social
Security Commission out of the State
Treasury, chargeable to the federal
allotment funds received from the
United States Childrens Bureau, the
sum of \$90,000.

"In Committee Substitute to Senate
Bill 125 this Commission is charged
with the duty of administering or
supervising child welfare services,
therefore, it would appear that the
appropriation to the Board of
Managers of the State Eleemosynary
Institutions is in error, or is a
duplication of the appropriation.

"We would appreciate receiving an

opinion from you as to which one of these appropriations shall stand; also, whether or not the Board of Managers of the State Eleemosynary Institutions can lawfully receive the funds which were appropriated to them."

House Bill No. 500, Section 3, approved July 1, 1937, provides as follows:

"There is hereby appropriated to the Board of Managers of the State Eleemosynary Institutions out of the State Treasury, chargeable to the Federal allotment funds received from the United States Children's Bureau, or other Federal Department; the sum of Ninety Thousand Dollars (\$90,000.00) or so much of the Federal funds as may be allotted to Missouri for Child Welfare Services from the U. S. Government."

House Bill No. 520, Section 6-B, approved July 1, 1937, provides as follows:

"There is hereby appropriated to the State Social Security Commission out of the State Treasury, chargeable to the Federal Allotment funds received from the United States Children's Bureau, or other Federal Department; the sum of Ninety Thousand Dollars (\$90,000.00) or so much of the Federal funds as may be allotted to Missouri for Child Welfare Services from the U. S. Government".

Committee Substitute for Senate Bill No. 125, passed June 23, 1937, provides in Section a for the repeal of Sections 14096 and 14096-a, found on page 189 of Session Laws of Missouri 1933. It further provides in part as follows:

"The State Commission shall also have power and it shall be its duty:

* * * * *

"to cooperate with the United States Children's Bureau in establishing, extending and strengthening child welfare services for the protection and care of homeless, dependent and neglected children, and children in danger of becoming delinquent, and to expend child welfare service funds for payment of part of the cost of district, county or other local child welfare services, and for developing state services for the encouragement and assistance of adequate methods of community child welfare organization, to administer or supervise all child welfare activities, including importation of children, licensing and supervising of child caring agencies and institutions except those conducted by any well known religious order, the operation of state institutions for children, and the supervision of juvenile probation under the direction of but not in derogation of the orders of juvenile courts. All powers and duties of the Commission shall, so far as applicable, apply to the administration of any other Act or state law wherein duties are imposed upon the Commission or the Commission is acting as a state agency".

Sections 14096 and 14096-a, Laws of Missouri, 1933, page 189 referred to supra, as being repealed, provide for the control and management of the State Children's Home to be exercised by the Board of Managers of State Eleemosynary Institutions.

Colligating the above provisions it will be noted that the management of the State Children's Home and the control of Child Welfare in Missouri by Committee Substitute to Senate Bill No. 125, has been taken from the Board of Managers of the State Eleemosynary Institutions and placed under the control of the State Social Security Commission. An appropriation of \$90,000.00 for the carrying out of this work is provided for by House Bill No. 520. However, House Bill No. 500, approved the same day as House Bill No. 520, also appropriated \$90,000.00 to the Board of Managers of the State Eleemosynary Institutions to be used for Child Welfare.

The question arises whether both of these appropriations will stand, and if not, which one is the valid one.

It is a rule of statutory construction that where two statutes cover in whole or in part the same matter, it is the duty of the court to harmonize them if possible and so give effect to both as though they constituted one act. State ex inf. Major vs. Amick, 152 S. W. 591; 247 Mo. 271.

Following out the above rule, the two appropriations would both stand and be valid. However, Committee Substitute to Senate Bill No. 125 repealed the statutes which gave the Board of Managers of the Eleemosynary Institutions control over the Children's Home and work in relation to Child Welfare. It therefore will be seen that the appropriation provided for by House Bill No. 500 is an appropriation of money to a board which has no power or right to expend it. This appropriation was manifestly a mistake or an oversight on the part of the Legislature. At the time that it was drawn up and voted upon the status of Committee Substitute to Senate Bill No. 125 was in doubt—that is, there was no way of knowing whether such bill

would be passed and approved- and so therefore the appropriation to the Board of Managers of the State Eleemosynary Institutions for Child Welfare was included in order that such work would not be left unprovided for.

The situation in this case is similar to that in State ex rel. Packard vs. Jorgenson, 31 N. Dak. 563, 154 N. W. 525. In that case the Legislature of North Dakota passed a bill appropriating six thousand dollars as a salary for the Tax Commissioner. In that case there was pending a bill substituting a single commissioner for the State Tax Commission which consisted of three members. In drawing up the appropriation bill, the salary of only one commissioner was provided for, it being contemplated that the act would be passed. However, the act was defeated, and a few days later the appropriation bill was passed, which still included the appropriation for only one commissioner. The Court said:

"It is apparent that the defeat of Senate Bill No. 261 was followed so closely by the passage of the budget bill that no time was given for consideration of this item, and that it was voted for and passed by inadvertence.

* * * * *

"It is our conclusion that the subdivision of the budget bill relied upon by respondent appropriating money for one tax commissioner was enacted through an inadvertence and is a nullity".

The situation described above is what probably occurred in the passage of House Bill No. 500, and through

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mistake the appropriation for Child Welfare to the Board of Managers of the State Eleemosynary Institutions was allowed to remain in the bill.

CONCLUSION.

It is therefore the opinion of this Department that House Bill No. 500 insofar as it appropriates money to the Board of Managers of the State Eleemosynary Institutions for Child Welfare, which is chargeable to the Federal allotment funds received from U. S. Children's Bureau, which is provided for by Section 3 of the bill, is a nullity, because by Committee Substitute to Senate Bill No. 125 the control of Child Welfare in this state was taken from the State Eleemosynary Institutions and placed under the management of the State Social Security Commission.

It is further our opinion that House Bill No. 520 which appropriates money to the State Social Security Commission, chargeable to the Federal allotment funds received from the United States Children's Bureau, is a valid appropriation.

Respectfully submitted,

APPROVED:

AUBREY R. HAMMETT, JR.
Assistant Attorney General

J. E. TAYLOR
(Acting) Attorney General