

STATE AUDITOR: Duty to audit claims against Relief, Child Welfare and Administration fund, created in the Casey Bill

August 4, 1937.

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Honorable George I. Haworth
Acting Administrator
State Social Security Commission of Missouri
Jefferson City, Missouri



Dear Sir:

We have your request of July 28, 1937, for an opinion relative to the construction to be placed upon the Casey Bill (C.S.S.B. 125), and which questions are as follows:

"(1) Under the broad powers given this Commission is it the State Auditor's duty to audit, adjust, and settle claims against the Relief, Child Welfare, and Administration funds, or does this Commission have the authority to audit, adjust, and settle claims against these funds and then present the approved and certified claim to the State Auditor for issuance of a warrant?

(2) Can the judgment and discretion of the State Auditor override the judgment and discretion of the State Social Security Commission? In other words, if a claim against the Relief, Child Welfare, or Administrative funds is approved by the Commission and certified, can the State Auditor question the validity or regularity of the claim, or is he concluded by the certificate and is his act of issuing the warrant purely ministerial?"

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We shall treat these questions separately.

I.

Authority to audit, adjust and
settle claims against the Re-
lief, Child Welfare and Adminis-
tration funds.

Sub-division 4 of Section 4 of the Casey Bill, provides that the State Commission shall have power "to administer, disburse, dispose of and account for funds * * *."

The above provisions merely gives the Commission the powers enumerated and does not repeal or supplant any existing law, inconsistent therewith, relative to the handling of state funds. For example, appropriation acts are still needed before funds can be paid out of the treasury and the general routine necessary for the payment of claims against the state is undisturbed by this section. We must, therefore, look to the general law of the state relative to the payment of funds.

Section 11404, R. S. Missouri, 1929, in prescribing the general duties of the State Auditor, provides:

"He shall: First, audit, adjust and settle all claims against the state payable out of the treasury, except only as such claims as may be expressly required by law to be audited and settled by other officers or persons; * * *."

An examination of the Casey Bill will reveal no such specific statutory authority to audit and settle claims in conflict with the above provision.

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It is, therefore, the opinion of this office that the State Commission has no authority to audit, adjust or settle claims against the Relief, Child Welfare and Administration funds, in lieu of the statutory powers delegated to the State Auditor, but that the State Auditor is obligated by statute to audit, adjust and settle claims against these funds in the same manner as he audits, adjusts and settles claims against every other fund.

II.

The State Auditor is not concluded by the certificate of the Commission in the auditing, settling and allowance of claims against the Relief, Child Welfare and Administration funds.

It has long been settled in this state that the State Auditor is not concluded by certificates for the payment of money properly issued by public officers. In the case of Morgan v. Buffington; 21 Missouri 549, a member of the general assembly, Morgan, sought to compel the State Auditor to draw warrant for an amount certified by the Speaker of the House to be due Morgan as compensation for services as a member of the House. The court held that the certificate of the Speaker of the House of Representatives was not conclusive upon the auditor. In that case the Supreme Court at l.c. 552, said:

"The auditor of public accounts is an important officer, entrusted with the management of the revenues of the state. Whilst the treasurer holds the iron or brazen key of the treasury, the auditor holds the legal key, and it is through his instrumentality alone that money can lawfully be drawn from it. The state looks to him as the

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protector of her treasure. The powers confided to him are necessarily large, and as by his mismanagement the state may at any time be rendered unable to fulfil her pecuniary engagements, so there should be a power in him to prevent such a state of things."

The Supreme Court in commenting upon the powers of the auditor in *State ex rel Gehner v. Thompson*, 316 Missouri 1169, l.c. 1180, said:

"His duties and responsibilities in guarding the expenditure of the money belonging to the State are so weighty, and the necessity for their proper performance so directly pressing upon him, as to leave no room for implication This is a power, of course, which the Auditor cannot exercise in an arbitrary manner, so as to defeat the payment of a just claim against the State. The law expressly provides for a reference of the matter to the General Assembly in every case where there is a refusal on the part of the auditor to allow the demand and draw his warrant therefor. This may not be as speedy a way of obtaining justice as a party might desire, but still it is the way pointed out by the statute, and which he may pursue or not at his pleasure."

The auditor has a large discretion to exercise in the auditing, adjusting and settling of claims against the state. Before his general powers can be taken away from him in the auditing and settling of any claim it must be made to appear by an express provision of some statute. *State ex rel v. Wilder*, 196 Missouri 418, 428.

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It is the duty of the State Commission under the Casey Bill, to determine the amount of Relief, Child Welfare or Administration cost. It is the duty of the State Auditor to determine when such claims are presented whether they are legal valid claims against the state and whether or not there are funds available for the payment of such claims.

It is, therefore, the opinion of this office that the auditor in auditing claims against the Relief, Child Welfare and Administration fund, may question the validity or regularity of the claim, that he is not concluded by the certificate of the State Commission as to the validity of the claim.

Respectfully submitted,

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APPROVED:

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