

September 27, 1974

OPINION LETTER NO. 301
Answer by Letter - Nowotny

Mr. Robert L. James
Commissioner
Office of Administration
Room 120, State Capitol Building
Jefferson City, Missouri 65101



Dear Mr. James:

This is in response to your request for an opinion concerning whether any state departments or agencies are exempt from regulations established pursuant to Section 33.090, RSMo 1969. You state that certain state departments and agencies, as well as the legislative and judicial branches, have from time to time questioned or claimed that they were not subject to regulations established pursuant to this law. More specifically, you state that they question having prior approval of out state travel as required by Rule 8(a) of the travel regulations.

In Opinion No. 3, 1955, Atterbury, we reviewed and approved certain forms for expense accounts for state officers and employees proposed by the Division of Comptroller and Budget. We held that such forms are in the public interest and are a necessary aid to the comptroller and state auditor in performance of their duties relating to such expenditures and should be adopted by the Division.

Of course, the duties of the comptroller are now given to the Commissioner of Administration. Section 26.300, RSMo Supp. 1973.

In writing the above-referenced opinion we first cited various provisions of the Comptroller's Law, Chapter 33, in determining the general duties of the comptroller for approving,

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preapproving and certifying expenditures from the state treasury. In reviewing these statutes, we stated in Opinion No. 3:

"We have observed from the sections hereinabove noted that the comptroller shall preapprove all claims and accounts submitted to him before certifying the same to the state auditor for payment; that the comptroller shall ascertain that such claims and accounts are regular and correct, and that every official and employee of the state who shall make any such expenditure without first securing the certifications of the comptroller and the auditor is subject to personal liability.

"The provisions contained in the above-noted sections refer primarily, we may assume to the certification and approval of purchases by various departments, but since there is no exception made of the certification and approval of travel expense accounts incurred, requiring the payment of money, in obligations required to be so certified and approved, we believe such provisions apply in like measure and with like effect, to such obligations as maintenance and expense accounts of state officers and employees in the performance of services for the state at places outside the town of their residence and official domicile where they are authorized by law to perform such services."

This opinion was written concerning the travel regulations at that time as well as the forms for making up monthly expense accounts. Accordingly, we found that there was authority for the forms and regulations for approval and preapproval of expense accounts.

Your question is whether these regulations can be made to apply under the statute to all state departments and agencies. We have reviewed Chapter 33 and do not find any exception to the operation of this chapter and, in particular, Section 33.090 concerning travel regulations, and Sections 33.030 and 33.040 concerning the comptroller's duties and powers to approve, preapprove, and certify expenditures for payment. Nor, are we aware of any provisions in any other law exempting any department, agency, the legislature, or the state courts, from the operation

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of these laws. Accordingly, it is our opinion that state departments and agencies, the legislature, and the judiciary, are not exempt from regulations established pursuant to Section 33.090.

Very truly yours,

JOHN C. DANFORTH
Attorney General