

MISSOURI COMMISSION OF THE BLIND:

No authority to pay
Board of Health from
funds appropriated to
Commission for specific
purposes.

AB659 A of Laws 33

September 11, 1933.



Hon. Forrest Smith,
State Auditor,
Jefferson City, Mo.

Dear Sir:

This department acknowledges receipt of a letter
from you as follows:

"I am in receipt of a letter from
Mrs. Mary E. Ryder, executive
director of the Missouri Commission
of the Blind, asking an opinion as
to whether \$175.00 a month could be
taken from the general operating
expense of the appropriation as
shown in Sec. 1, pages 137 and 138,
Missouri Laws 1933, and given to the
State Board of Health.

Our department would appreciate an
opinion from your office as to the
legality of this transfer, also from
what item in the appropriation, if
any, could this money be taken.

In the proper determination of your question, we are
first directed to the provisions of our Constitution from
which we quote. Section 43, Art. IV of the Constitution be-
gins with this provision:

"All revenue collected and moneys re-
ceived by the State from any source
whatsoever shall go into the treasury
and the General Assembly shall have no
power to divert the same, or to permit
the money to be drawn from the treasury,
except in pursuance of regular appropri-
ations made by law."

Also, Sec. 19, Art. X of the State Constitution provides:

"No moneys shall ever be paid out of the treasury of this state or any of the funds under its management, except in pursuance of an appropriation by law."

In the case of State ex rel v. Gordon, 236 Mo., l.c. 158, our Supreme Court in construing these sections, said:

"The language of the foregoing provisions of the Constitution is clear and explicit and forbids the payment of money from the State Treasury 'received from any source whatsoever', or 'of any funds under its management', except in pursuance of regular appropriations made by law. Because of this constitutional inhibition we have no difficulty in deciding that in the absence of an appropriation made by the General Assembly for that purpose, no funds could be lawfully paid out of the State treasury for the support and maintenance of the game department."

And in State ex rel v. Hackmann, 314 Mo., l.c. 53, stated:

"It further appears that no money has been appropriated out of which relator's bill, as herein submitted, can be paid and since under the provision of Section 19, Article X of the Constitution, no money may be paid out of the State Treasury except in pursuance of an appropriation by law the respondent was and is without authority to issue a warrant in payment of relator's claim. For it cannot be said that a claim is paid pursuant to an appropriation act where it is paid out of money specifically appropriated for a different purpose."

From the above it clearly appears that if no money has been appropriated from which the Missouri Commission of the Blind could pay the \$175.00 per month, and since under the provisions of the Constitution, supra, no money may be paid out of the State Treasury except in pursuance of an appropriation by law, the State Auditor was and is without authority to issue a warrant in payment of such a claim. It cannot be said that a claim is paid pursuant to an appropriation if it is paid out of money specifically

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appropriated for a different purpose. Laws 1933, p. 137, Sec. 1, reads as follows:

"For the purpose expressed in Chapters 50 and 51, R.S. 1929, there is hereby appropriated out of the State Treasury, chargeable to the blind pension fund, for the use and benefit of the Commission of the Blind, the following amounts for the specific purposes expressed herein."

From the above appropriation act it will readily be seen that the appropriation is made for the use and benefit of the Commission of the Blind and for the specific purposes expressed in said Act. Now, if Twenty-one Hundred Dollars (\$2100.00) annually, or any sum for that matter, be paid out of money specifically appropriated for the purposes expressed in subdivisions A, B, C and D of Sec. 1 of the Laws of 1933, p. 137, for the benefit of the Commission of the Blind, it could not be said that said sum, or any sum, so paid was pursuant to the appropriation, as it necessarily would be paid out of money specifically appropriated for a different purpose.

In view of the provisions of the Constitution and the decisions of our Supreme Court, this department is of the opinion that the State Auditor would have no authority to issue a warrant to the State Board of Health and charge it to the general operating expense of the Commission of the Blind.

Respectfully submitted,

W. W. BARNES,
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General.

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