

PUBLIC SERVICE COMMISSION - Appropriation Act, construction thereof.

8-13
August 9th, 1934.



Honorable Forrest Smith
State Auditor
Jefferson City, Missouri

Dear Sir:

We have your request of July 25th, 1934 for an opinion upon the following facts:

"I would like an opinion from your office as to whether the salary of the Secretary, General Counsel, Assistant Counsel, rate experts, stenographers and clerks of the Public Service Commission can be paid out of the appropriation given to the Public Service Commission to operate the motor bus and truck traffic."

In the construction of the Appropriation Act involved, Sections 23 and 24, p.p. 158-160, Laws Mo. 1933, we set out the following constitutional statutory provisions: Article X, Section 19:

"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; * * and every such law, * * shall distinctly specify the sum appropriated, and the object to which it is to be applied; * * "

#2 - Honorable Forrest Smith

Section 11404 R. S. No. 1929, relating to the general duties of the State Auditor, provides that in all warrants drawn by him on the treasury, he shall,

" ** express in the body of every warrant which he may draw upon the treasury the particular fund, appropriated by law, out of which the same is to be paid; ** "

Section 23 of the Appropriation Act, Laws No. 1933, p. 158, makes appropriations as follows:

"Salary of general counsel.....\$8,100
Salary of the Secretary..... 6,480 "

Thus, by a specific appropriation under the mandatory requirements of the State Constitution, the Legislature has provided that the salaries of the general counsel and the secretary shall be paid from Section 23 of the Appropriation Act, supra.

Similar appropriation is made in Section 24 for the assistant counsel, rate experts, stenographers and clerks of the Public Service Commission, all of which are payable out of the motor bus and truck traffic fund - Laws No. 1933, p.p. 159-160.

The general rule is that appropriations for specific purposes may only be spent for those purposes, and is found well stated in 4 C.J. p. 1460:

"An appropriation of funds is an authority from the legislature, given at the proper time and in legal form to the proper officers, to apply sums of money, out of that which may be in the treasury in a given year, to specified objects or demands against the state; ** "

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In State Board of Health v. Frohmler, State Auditor, 23 Pac. (2d) 941, l.c. 942, the Supreme Court of Arizona said:

"When the Legislature has specifically stated the amount that may be spent for any purpose, * the department, institution, or office must operate within that sum and may not take from an appropriation for another purpose to supplement it. "

It is, therefore, the opinion of this office that the salaries of the general counsel and secretary of the Public Service Commission are to be paid out of the funds appropriated under Section 23 of the Appropriation Act, supra, and that the salaries of the assistant counsel, rate experts, stenographers and clerks of the Public Service Commission may be paid out of the appropriation set out in Section 24 of the Appropriation Act, and that the salaries of the general counsel and the secretary of the Commission cannot be paid from Section 24 of the Appropriation Act relating to motor bus and truck traffic.

Respectfully submitted,

FRANKLIN E. REAGAN
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

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