

APPROPRIATIONS:—SECTION 12-A1 APPROPRIATES AND TRANSFERS TO THE Grain Inspection Fund \$18,000.00 which may be paid out according to the appropriations charged to the Grain Inspection Fund under Section 14, Laws of Missouri 1933, page 38.

2-24
February 21, 1934.



Mr. Joe Spoor, Chief Clerk,
Grain Inspection and Weighing Department,
317 Board of Trade Building,
Kansas City, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"Will you please give me an opinion construing Section 12-A1 of House Bill No. 127, which was passed in the extra session?"

Sometime ago, \$18,000.00 was appropriated from the Grain and Warehouse Department, and put in the General Revenue Fund. In Section 12-A1, there is appropriated \$18,000.00 for the Grain & Warehouse Inspection Fund, which is chargeable to the General Revenue Fund, and it does not specify how it is to be used. The Department is operating on the least expense possible at the present time, and we are badly in need of this money to pay for the extra help during the months of June, July and August."

Section 12-A1 of House Bill No. 127, passed by the 57th General Assembly in extra session, provides as follows:

"There is hereby appropriated to the Grain and Warehouse Inspection Fund, out of the State Treasury, chargeable to the general revenue fund, the sum of Eighteen Thousand Dollars (\$18,000.00)."

You inquire for what purposes can this fund be used and particularly can it be used for salaries for extra men whom it is necessary to employ during the months of June, July and August. We do not find any decision of our Courts construing an appropriation of this kind.

Section 19 of Article X of the Constitution of Missouri provides as follows:

"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; nor unless such payment be made, or a warrant shall have issued therefor, within two years after the passage of such appropriation act; and every such law, making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such sum or object. A regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

Under the foregoing constitutional provision, it is provided that every law making a new appropriation shall distinctly specify the sum appropriated and the object to which it is to be applied. Section 12-A1 does distinctly appropriate the sum of \$18,000.00 and distinctly appropriates and transfers it to the Grain and Warehouse Inspection Fund. We believe that the appropriation conforms to the constitutional requirement.

In 38 Cyc. 892, it is said:

"A specific appropriation is an act by which a named sum of money is set apart in the treasury and devoted to the payment of particular claims or demands. The appropriation must be specific as to the amount or fund appropriated and as to the object for which the appropriation is made, it being sufficient, however, if the amount is capable of being determined, and it is not essential that the amount be certainly ascertained prior to the appropriation, nor need the statute designate the fund out of which the money is to be drawn. The appropriation need not be made in any particular form of words, nor need it necessarily be express. It is sufficient if the legislative intent to make an appropriation clearly appears, expressly or by implication, from the terms of the statute; but such language must be used as will show the intention of the legislature to make an appropriation; and such intention will not be inferred from doubtful or ambiguous language."

The Legislature in 1933, Laws of 1933, page 98, Section 14, passed the following appropriation:

"GRAIN AND WAREHOUSE DEPARTMENT.--There is hereby appropriated out of the State Treasury, chargeable to the grain inspection and weighing fund, the sum of three hundred ninety-one thousand two hundred dollars (\$391,200.00) to pay the salaries, wages, and per diem of the officers and employees and other expenses of the grain and warehouse commissioner, as follows:

A. FOR PERSONAL SERVICE;

1 warehouse commissioner, 2 chief clerks, 2 chief inspectors, 3 deputy chief inspectors, 2 supervising inspectors, 25 inspectors, 3 registrars, 12 clerks, 36 weighers, 38 samplers, and 4 helpers and temporary help including clerks, weighers, samplers, inspectors and helpers, - - - - - \$339,525

B. ADDITIONS:

Laboratory, scientific and testing equipment, protein laboratory at St. Louis or St. Joseph, - - - - - 3,750

C. FOR REPAIRS AND REPLACEMENTS:

Laboratory, scientific and testing equipment, office furniture, and equipment, transportation and conveying equipment, replacement of automobile, - - - - - 2,400

D. FOR OPERATION:

General expense: including communication, printing and binding, transportation of things, travel, other general expense (office rent and premium on bonds) and material and supplies; consisting of light, heat, power and water supplies, small tools, miscellaneous supplies and repairs, stationery and office supplies and special material and supplies, - - - - - 45,525

Total, - - - - - \$391,200"

Under Section 14 above, the Legislature appropriated out of the Treasury and chargeable to the Grain and Inspection Fund, \$391,200, and provided for what purposes the money appropriated out of the Grain Inspection and Weighing Fund should be used. By Section 12-A1 above, the Legislature, by appropriation, transferred from the general revenue fund in the State Treasury to the Grain and Ware-

house Inspection Fund the sum of \$18,000.00. Section 12-A1 did not appropriate this sum for any particular expenses and apparently it was the intention of the Legislature to replenish the Grain Inspection Fund by this amount. The Legislature had previously made appropriations out of the Grain Inspection Fund for various purposes and in paragraph A, for Personal Services, under Section 14, had appropriated \$339,525. Since Section 12-A1 was appropriated to replenish the Grain and Inspection Fund and not specified for any enumerated expenses, we believe that it may be used to pay the appropriations made by Section 14 above. We believe that this sum of money may be paid out for salaries under paragraph A of Section 14, so long as the total amount expended out of the Grain Inspection and Weighing Fund for salaries does not exceed the sum of \$339,525, authorized for that purpose. We conclude that Section 12-A1 did not appropriate an additional \$18,000.00, but that the intention of the Legislature was to withdraw from the general revenue fund this sum for the purpose of replenishing the Grain Inspection Fund and making available actual money not otherwise available in the Grain and Inspection Fund, out of which the appropriation under Section 14 above could be paid. Apparently there were less fees in the Grain Inspection Fund than the amount appropriated, resulting in a deficit.

In answer to your inquiry, therefore, it is our opinion that the \$18,000.00 appropriated to the Grain and Warehouse Inspection Fund under Section 12-A1 was merely a transfer of appropriation from the general revenue fund to the Grain and Inspection Fund, and that that sum of money, or portions thereof, may be used for any of the purposes set forth under the appropriations set forth in Section 14 above, so long as the amounts withdrawn for the various purposes do not exceed the amount appropriated therefor. In other words, that all or a portion of this \$18,000.00 may be used, under paragraph A of Section 14, for personal services, except that the total amount expended during the biennium for that purpose shall not exceed \$339,525.

Very truly yours,

FRANK W. HAYES,
Assistant Attorney General.

APPROVED:

Attorney General.

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