

OFFICIAL BONDS: Premium on official bond of State Labor Commissioner cannot be paid out of appropriation of Department of Labor & Industrial Inspection.

March 11, 1936.

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Mrs. Mary Edna Cruzen,
State Labor Commissioner,
Jefferson City, Missouri.

Dear Mrs. Cruzen:

This department is in receipt of your letter of March 9 requesting an opinion as to the following:

"Under section 13169, it is necessary that I furnish the State of Missouri bond in the amount of \$20,000.

"I would like to know whether or not payment of premiums covering this bond cannot be taken out of the appropriation made this department for operating and other expenses. * * * "

Section 13169, R.S. Mo. 1929 provides:

"Before said commissioner of labor and industrial inspection shall enter upon the duties of his office, he and the deputy commissioners provided for by this article shall be required to take and subscribe to an oath of office and the commissioner shall give a good and sufficient bond to the State of Missouri in the penal sum of twenty thousand dollars, to be approved by the attorney-general as to form, and by the governor as to sufficiency, conditioned upon the faithful

performance of the duties of his office, and that he will render an honest and accurate accounting of all funds which may come into his hands through the performance of his official duties, and said commissioner shall be held liable on his official bond for any defalcations of any of his deputies, agents, assistants, or other employes."

The appropriation for the Department of Labor and Industrial Inspection (Laws of Mo. 1935, p. 100) provides:

"There is hereby appropriated out of the State Treasury, chargeable to the State revenue fund, the sum of Ninety-five Thousand Three Hundred Dollars (\$95,300.00) to pay the salaries, wages and per diem of the officers and employees, and other expenses of the Department of Labor and Industrial Inspection, as follows:

A. Personal Service:	
Salaries of the Commissioner, chief clerk, statistician, deputy commissioners, stenographers, inspectors and janitors.....	\$75,000.00
B. Additions.....	500.00
D. Operation:	
General expenses, consisting of communication, printing and binding, travel, other general expenses.....	<u>19,800.00</u>
Total payable out of State Revenue Fund.....	\$95,300.00"

It will be noticed that Section 13169, supra, does not provide for the payment of the premium on the required bond, nor does the Appropriation Act make any provision for the payment of

the same.

CONCLUSION

It is the opinion of this department that premiums on official bonds may only be paid by the State of Missouri where the statute requiring the bond provides for the payment of the premium by the State, and the appropriation act for the department wherein the official bond is required of some official makes provision for the payment of the premium on said bond.

In this connection it must be remembered that in many instances (and it is particularly made so by Sec. 13169, supra), the giving of the bond is a condition precedent to qualifying for the office, and unless otherwise provided by statute, can be viewed in no other light than the personal obligation of the office holder.

We have recently ruled on a question substantially similar to your request and are enclosing copy of said opinion, which we believe fully answers the question presented by you.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.,
Assistant Attorney General.

APPROVED:

ROY MCKITTRICK,
Attorney General.

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