

OFFICIAL BONDS:

Members of the State Tax Commission required to give bond in the amount of \$10,000 and payment for premium for a surety one cannot be paid out of appropriations to Tax Commission for operation.

January 2, 1936. 13



Hon. Andy W. Wilcox
Chairman
State Tax Commission
Jefferson City, Missouri

Dear Mr. Wilcox;

This is to acknowledge your letter as follows:

"The State Tax Commission would like an opinion from your Department on the following subject:

'Can this Department pay the premiums on surety bonds out of money appropriated for operation?'

"You are no doubt aware that the three commissioners of this Department are under \$10,000. bond each and it has been the custom heretofore to pay it out of the operation appropriation."

Section 9826, R. S. Mo., 1929, provides as follows:

"Before entering upon the discharge of his official duty, each member of the commission shall execute a bond payable to the state of Missouri in the penal sum of ten thousand dollars (\$10,000.00), to be

approved by the governor, for the faithful discharge of official duties, and his official oath, duly subscribed to, shall be indorsed upon their official bond, which bond and oath, when so executed, shall be filed in the office of the secretary of state."

By virtue of the above section it is mandatory upon each Commissioner of the Missouri State Tax Commission, before engaging upon the discharge of official duties, to give a bond in the amount of \$10,000.00 to the State of Missouri, and nowhere is it provided therein that the State of Missouri is liable for payment of premium if such is a surety bond.

Laws of Missouri, 1935, pages 35-36, provides for the appropriation to the State Tax Commission and a reading of same shows that salaries of the members of the Commission are found under Paragraph "A" for Personal Service" and under Paragraph "D" is specified the amount to be expended for "Operation" and provides as follows:

"D. For Operation:

"General expense; including communication, printing and binding, transportation of things, travel, other general expense; material and supplies consisting of small tools, miscellaneous supplies and repairs and stationery and office supplies \$12,850"

You will note that the appropriation for "Operations" to the Tax Commission does not include the payment of expense items for premiums on bonds if such be surety bonds.

From the above it is our opinion that if the Commissioners of the Missouri State Tax Commission give surety bonds to comply with Section 9826, supra, that the premiums on said bonds cannot be paid out of the appropriation found in Laws of Missouri, 1935, supra.

Hon. Andy W. Wilcox

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January 2, 1936.

In support of our conclusion we herewith attach opinions previously rendered by this Department, dated June 18, 1935 and November 5, 1935, to Honorable Forrest Smith, State Auditor, and Honorable Roy H. Cherry, State Inspector of Oils, respectively.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney-General

JLH:EG
Encs.