

SOCIAL SECURITY COMMISSION: Refunds and recoveries received by
commission to be deposited in State
Treasury to credit of General Revenue
Fund.

July 27, 1937

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Honorable George I. Haworth
Acting Administrator
State Social Security
Commission of Missouri
412 East High Street
Jefferson City, Missouri

Dear Sir:

We have your request of July 22, 1937, for an opinion
upon the following question:

"Can refunds and recoveries collected
by this Commission be credited to
the respective appropriation in the
State Auditor's office, or is it
necessary that such refunds and re-
coveries be credited to the general
revenue fund?"

Your inquiry refers to Sections 4 and 20 of the Casey
Bill, (CSSB 125).

Article IV, Section 43 of the Constitution of Missouri
in part provides that all moneys received by the state from
any source shall go into the treasury, and the General Assembly
shall have no power to divert the same except by appropriations
made by law.

Article X, Section 15 of the Constitution of Missouri
provides that after such funds are deposited in the State
Treasury they shall

"be disbursed by said Treasurer for
the purposes of the State, according
to law, upon warrants drawn by the
State Auditor, and not otherwise."

The 1933 Session of the Legislature, Laws 1933, page 415, requires all moneys from whatever source received by any commission to be placed in the State Treasury.

Section 4 of the Casey Bill, referred to in your request, merely gives the Commission power "to administer, disburse, dispose of and account for funds,*"; all of which must be done in accordance with existing laws of Missouri, and in view of the judicial interpretation given the Constitution of this state.

Section 20 of the Casey Bill, referred to in your letter, merely establishes certain special funds. The establishment of special funds does not constitute a continuing appropriation. The amount of money that can be drawn from the State Treasury for any specified purpose is limited by the appropriation act authorizing the withdrawal.

Our Supreme Court in State ex rel. vs. Henderson, speaking of a special fund and its expenditure, 160 Mo. 190, l. c. 214, said:

"So without further elaboration we hold that the Act of April 19, 1899, was not an appropriation bill within the meaning of Section 43, article 4 of our Constitution, but on the contrary was an act to provide a tax to create a special fund, which could only be withdrawn from the Treasury by a subsequent appropriation act duly enacted,*".

Quoting from our Supreme Court on this matter in State vs. Hackmann, 264 S. W. 366, l. c. 367, the Court said:

"On the other hand, this court has held that a fund, raised by an act for a special purpose, could not be paid out of the state treasury except upon an appropriation by an act of the Legislature. State ex rel. Fath et al. vs. Henderson, 160 Mo. 190, loc. cit. 214, 60 S. W. 1093; State ex rel. vs. Gordon, 236 Mo. 142, loc. cit. 158, 139 S.W. 403. In the case last cited the court had under consideration a fund for the support and maintenance of the game department. It was held that the creation of a special fund is not a continuing appropriation of the fund, or of any part of it, to pay accounts drawn against it. That the creation of the fund is one thing, and the appropriation of money to pay accounts against the fund is quite another thing. The language of the Constitution is unequivocal; it requires an appropriation before payment of money received by the state 'from any source whatsoever.' The money collected by the board is received by the state; it goes into the state treasury. To make it more specific, the requirement that an appropriation by the Legislature will be necessary before money can be paid out of the treasury of the state, it is applied, not only to state funds, but to 'any of the funds under its management.'"

Whatever funds are received by the Commission which properly belong to any special fund shall go into the Treasury and be credited to such fund, but the maximum total withdrawals that may be made against such special fund is the amount authorized by an appropriation act. By reference to the appropriation act (H.B. 520), we find that there is appropriated for relief Nine Million Dollars. This is the total amount of money that may be withdrawn from the treasury under appropriation acts for this purpose.

Hon. George I. Haworth

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July 27, 1937

It is therefore the opinion of this office that any funds and moneys received by the Commission are to be credited to the general revenue fund, unless otherwise specifically provided.

Respectfully submitted,

FRANKLIN E. REAGAN,
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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