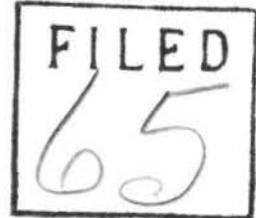


UNEMPLOYMENT COMPENSATION
COMMISSION

Authorized to bond employees.

July 16, 1937.

7-16



Honorable Andrew J. Murphy
Chairman, Unemployment
Compensation Commission
Jefferson City, Missouri

Dear Mr. Murphy:

You have requested the opinion of this office as to the protection afforded the Unemployment Compensation Administration Fund by the general statutes and the Unemployment Compensation Law, having particular reference to the bonding of officers and the employees of the Commission.

In reply to your request we cite to you the following as authority for the bonding of Officers and such employees.

Section 13 (a) of the Unemployment Compensation Law establishes the Unemployment Compensation Administration Fund as a special fund in the State Treasury.

Under Section 11465 R. S. Mo. 1929, all moneys in the State Treasury are required to be deposited in depositories selected by the State Treasurer, with the approval of the Governor and Attorney General, and by virtue of Section 11469, page 378, Laws of Missouri 1931, such depositories are required to give security for all such funds. These two above mentioned Sections are now in full force and effect, but on September 6, 1937, Senate Bill 98 of the 59th General Assembly will become operative. This Bill amends these two Sections, strengthening these laws.

Under the provisions of Section 11390 the State Treasurer is required to supply a bond to the State of not less than five hundred thousand dollars, conditioned upon the faithful performance of his duties required by law,

July 16, 1937

"whether as State Treasurer or in any capacity in which he may be required to act ex officio by virtue of being State Treasurer, and for the safety of the State funds and securities in his custody or under his control".

By the foregoing provision each and every act of the State Treasurer, whether acting as State Treasurer or in some other capacity, authority to act for which is derived from the fact that he is State Treasurer, is covered by this bond. In addition to this the State Treasurer, by virtue of provisions of Section 13 (a) of the Unemployment Compensation Law is required to give additional bond for the faithful performance of his duties in connection with the Unemployment Compensation Administration Fund. A portion of this Section reads as follows:

"The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation administration fund in an amount to be fixed by the Commission, and in a form prescribed by law or approved by the Attorney General. The premiums for such bond * * * shall be paid from the money in the unemployment compensation administration fund."

July 16, 1937

This authorizes and calls for an additional bond as a special protection for this particular fund.

While not necessary, I call your further attention further to provisions of Section 11390, requiring of the State Auditor a like bond in the sum of fifty thousand dollars. In the case of State ex rel. vs Thompson, 85 S.W. 594, our Supreme Court determined that the State Auditor is liable on his bond for the auditing of accounts and issuance of warrants for items the payment of which was not authorized by the Appropriation Act. Thus, in respect to the duties of the State Auditor in the disbursement of the Unemployment Compensation Administration Fund, this bond is a guarantee that the provisions of the law will be complied with.

In respect to the duties of the State Purchasing Agent, who, under the law, is charged with certain duties in respect to the purchase of supplies and equipment. Section 1 of the State Purchasing Agent Act, page 410, Laws of Missouri 1933, provides that the State Purchasing Agent

"* * * shall give bond with two or more sureties in the sum of twenty five thousand dollars".

This bond is, of course, conditioned on the faithful performance of his duties. Accordingly any dereliction of duty on his part in respect to the purchase of supplies, equipment, etc., out of moneys belonging to the Unemployment Compensation Administration Fund would be covered by this bond.

The State printing Commission is composed of the Secretary of State, State Auditor and the State Treasurer. As heretofore set out, the State Auditor and the State Treasurer are under bond conditioned upon the

Honorable Andrew J. Murphy

-4-

July 16, 1937

faithful performance of their duties in ex officio capacities. These bonds would therefore cover them in respect to their duties as members of the Printing Commission, and would guarantee the faithful performance of their duties in respect to the printing and binding for the Unemployment Compensation Commission and the expenditure of the Unemployment Compensation Administration Fund for such purposes. Under the provisions of Section 11369, the Secretary of State is required to supply bond in the sum of ten thousand dollars, conditioned upon the faithful performance of his duties.

In respect to the employees and officers of the Unemployment Compensation Commission, we direct attention to the provisions of Section 5(d) of the Unemployment Compensation Law. This Section reads in part as follows:

"The Commission may delegate to any such person such power and authority as it deems reasonable and proper for the effective administration of this act, and may in its discretion bond any person handling moneys or signing check hereunder".

By this provision the Commission has ample power and authority to require any and all of its officers and employees to supply an adequate bond guaranteeing the faithful performance of their duties in respect to moneys handled by them.

Honorable Andrew J. Murphy

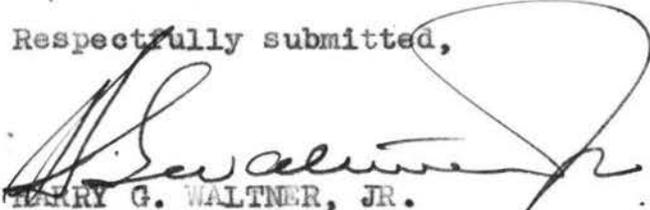
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July 16, 1937

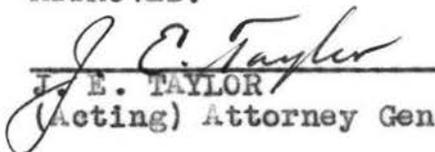
CONCLUSION

From the foregoing resume of the principal statutory provisions respecting the bonds of officers and employees charged with duties in respect to the handling of Unemployment Compensation Administration Fund, it conclusively appears that those officers charged with the handling of the fund are required under the law to be bonded, and that the Unemployment Compensation Commission is authorized by a specific statutory authority to require employees of the Commission handling the fund to supply adequate bond insuring the faithful performance of their duties in respect thereto.

Respectfully submitted,


HARRY G. WALTNER, JR.
Assistant Attorney General

APPROVED:


J. E. TAYLOR
(Acting) Attorney General.