

AMENDMENT NUMBER FOUR:

CONSERVATION COMMISSION: Has power both by Amendment Number Four and Section 8211, R. S. 1929, to confer honorary commissions on persons and require such persons to enter into a reasonable bond

September 7, 1937

Honorable J. F. Ramsey
Acting Director
Conservation Commission
Jefferson City, Missouri

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Dear Sir:

This Department is in receipt of your recent letter wherein you make the following inquiry:

"I am quoting below an excerpt from the minutes of the last meeting of the Conservation Commission which was held in Jefferson City on August 9:

" 'Mr. Greensfelder moved that the Acting Director confer with the Attorney General relative to the power of the Commission to issue special commissions to other than employees of the Conservation Commission, and what form of bond could be required and the amount.'"

"I would greatly appreciate it if you would let me have a letter giving me your opinion in this matter, and your suggestion of the form of bond that should be required."

On November 3, 1936, at the general election of 1936, Amendment Number Four became a law, a part of the Constitution, by initiative. The effect of the Amendment was to transfer the control, management, restoration, conservation and regulation of the bird, fish, game, forestry and all wild life resources of the State from the Commissioner of Game and Fish to a Commission to be known as the Conservation Commission. Prior to the effective

date of Amendment Number Four, which was July 1, 1937, the Commissioner of Game and Fish was empowered to appoint deputy Game and Fish Commissioners, under Section 8211, Revised Statutes Missouri 1929, which is as follows:

"The state game and fish commissioner shall have power to appoint at any time one or more deputies, from each congressional district, who shall assist him in the discharge of his duties, and such deputies shall have like power and authority as is herein provided for the game and fish commissioner; but such deputies shall be subject to the supervision and control of the game and fish commissioner and subject to removal by him. Such deputies shall each receive a per diem of four dollars per day, for each day while under the direction of the state game and fish commissioner, to perform services in the enforcement of fish, game and birds laws, and their actual necessary expenses incurred while working under the direction of the state game and fish commissioner, which expenses shall be paid monthly upon vouchers verified under oath and approved by the state game and fish commissioner, and paid out of the game protection fund."

Amendment Number Four contains the expression

"and the administration of the laws now or hereafter pertaining thereto."

In the fourth paragraph a similar expression is used

"and for the administration of the laws pertaining thereto and for no other purpose."

This Department has ruled heretofore that the laws pertaining to the Game and Fish Department of the State of Missouri remained in full force and effect after the commissioner of game and fish has been superseded by the Conservation Commission. Of course, it must be borne in mind that Amendment Number Four repeals all the laws or sections which were inconsistent with the amendment itself.

The Amendment, in the third paragraph, contains the following provision;

"A Director of Conservation shall be appointed by the Commission and such director shall, with the approval of the Commission, appoint such assistants and other employees as the Commission may deem necessary. The Commission shall determine the qualifications of the director, all assistants and employees and shall fix all salaries, except that no commissioner shall be eligible for such appointment or employment."

Bearing in mind the provisions of Section 8211 and the provisions of Amendment Number Four which we have herein referred to and quoted, we are of the opinion special commissions may be issued by the Director, acting under the direction and with the approval of the Conservation Commission; that the Conservation Commission has such power both by the statute and by the Amendment itself.

We think it is discretionary with the Conservation Commission as to the title and limitation of the duties of such persons who are given commissions, and it would appear that the title of Deputy State Game and Fish Commissioner could no longer be conferred upon any person as the Game and Fish Commissioner no longer exists, and that title would be in conflict or inconsistent with Amendment Number Four.

September 7, 1937

With reference to requiring a bond of any person seeking an honorary position we likewise think it is discretionary with the Conservation Commission. Section 8206, Revised Statutes Missouri 1929, required the Game and Fish Commissioner to enter into a bond with the State of Missouri in the sum of Five Thousand Dollars (\$5,000). There is no other statute relating to any other employee or person being compelled to execute a bond for entering upon active or honorary duties. Amendment Number Four has placed the control and management of the fish and game life in the hands of the Conservation Commission, and, having the exclusive power to name all employees and officers of the Commission, if the commission desires as one of the qualifications to name a person that such person execute a bond in a reasonable amount for faithful performance of duties, we think it entirely within the power of said Commission to demand such a bond, the form of the bond to be the usual form which is executed by officers and employees in the State of Missouri, which shall demand of the principal that he "shall well, truly and faithfully discharge and perform, according to law, all and singular the official duties" conferred upon him.

The oath of office and the form of bond attached to your inquiry are sufficient in form and substance and may be changed, where necessary, to meet the requirements of the title when the title is designated by the Conservation Commission.

Respectfully submitted,

OLLIVER W. NOLEN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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