

PARK BOARD:
APPROPRIATIONS:

Personal service may be paid out of appropriations for labor, maintenance and repairs.

February 2, 1938.

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Mr. I. T. Bode,
Director of Parks,
State Park Board,
Jefferson City, Mo.

Dear Sir:

This department is in receipt of your request for an opinion which reads as follows:

"The appropriation for the State Park Board for the biennium will be found on page 168, Section 145-0 Laws of Missouri, 1937. Paragraph A is designated 'personal services'.

"I would like to know if the State Board is restricted, solely, to the amount appropriated in this paragraph, in paying the personal services of employees of the board".

Laws of Missouri, 1937, Section 145-0, page 168, provides as follows:

"There is hereby appropriated out of the State Treasury, chargeable to the general revenue fund, and payable to the State Park Board, the sum of Ninety Thousand Eight Hundred Twenty-five Dollars (\$90,825.00) to pay the salaries, wages, and per diem of the officers and employees and other expenses of the state parks, as follows; for the period beginning July 1st, 1937 and ending January 1st, 1939:"

A.	Personal Service: Twenty-six (26) park superintendents, chief of parks and refuges, assistant chief of parks and refuges, publicity director, two (2) construction engineers, and refuge inspector, three (3) park inspectors, extra labor and skilled help, landscape architect, also extra help and expenses for burning fire protection lines, clearing lands, draining ditches, riding range lines, roadways and walks, life preservers, and so forth....	\$15,000.00
B.	Additions: Labor and expenses, material and supplies for the erection of buildings, installation of light plants and water supply and plumbing and for operative equipment, including educational and recreational equipment, household, kitchen and dining room equipment, production and construction equipment and transportation and conveying equipment..... For the purchase of lands for park purposes. Labor, material and supplies for erection of structures..... For purchase, improvement and development of land for park purposes.....	10,000.00 10,350.00 15,000.00 10,000.00
C.	Repairs and Replacements: Buildings, building equipment, including light plant, water supply and plumbing and operative equipment consisting of educational and recreational equipment, household, kitchen and dining room equipment, production and construction equipment (non-industrial) transportation and conveying equipment and structures.....	10,475.00
D.	Operations: General expense including communication, regu- lative transportation of things, travel in and out the State, travel and other general ex- penses; also Material and Supplies: Consisting of clothing and dry goods, farm and garden supplies, grounds and roadways material and supplies, household supplies, laundry, cleaning and sanitation supplies, small tools, miscel- laneous supplies and repairs and special ma- terial and supplies, and for bonds for account- able officers.....	20,000.00
TOTAL.....		\$90,825.00

An appropriation law is to be construed under and by the same rules as other legislation (59 C. J. 262). The language is to be presumed to have been used in its natural and ordinary meaning and not to be given a forced and unnatural construction (State vs. Seibert, 12 S. W. 348, 99 Mo. 122).

We, therefore, look to paragraphs B, C, and D of the Appropriation Act to see if the legislature intended that compensations for personal services should be paid out of the sums appropriated in these paragraphs.

Under paragraph B, which is designated "Additions", the first appropriation for \$10,000.00 is for "labor and expenses" for the erection of buildings and installation of certain equipment. The third sum appropriated under paragraph B is for \$15,000.00 which is to be used for "labor, material and supplies for the erection of structures". As was said in State ex rel. McKinley Publishing Company vs. Hackman, 282 S. W. (2nd) 1007, 314 Mo. 33:

"Where the intention of the legislature is plain and obvious, there is no rule for judicial construction of an appropriation".

The inclusion of the word "labor" in the two appropriations stated above, plainly shows that the compensation for the personal services rendered in erecting the buildings and installing the various equipment can be paid out of these funds.

The second item in paragraph B is for "the purchase of lands for park purposes", and we believe is equally obvious that this money is to be used only for the purchase of lands and no pay for personal services may be taken out of this sum.

The fourth item in paragraph B is "for purchase, improvement and development of land for park purposes". As to the meaning of the word "maintain" as used in connection with a park, the Supreme Court of

Illinois in *People ex rel. Gibbons vs. Clark*, 129 N. E. 593, 296 Ill. 46, said:

"Improvement of a park necessarily includes watering and mowing the grass, watering and cultivating the flowers, and cultivating and trimming the shrubbery and trees. To do these things it is necessary to have officers and employees to supervise and do the work.

Any reasonable-minded taxpayer willing to assume his just proportion of the burden of maintaining public parks for the pleasure and improvement of the people would have no difficulty in understanding that "improvement" of a park would include provisions for maintaining and governing the park".

In view of the above construction of the word "maintain", it will be seen that the compensation for personal services for supervising and doing the work in improving land for park purposes may be paid out of item 4, paragraph B.

The title of paragraph C is, "repairs and replacements" and for this \$10,475.00 has been appropriated. This sum is to be expended in repairing or replacing "buildings, building equipment * * * and operative equipment".

According to *Barber-Asphalt Company vs. Hezel*, 56 S. W. 449 - 155 Mo. 391, "to repair means to restore to a sound or good state after decay, injury, dilapidation, or partial destruction". Patent-ly in repairing buildings and equipment, personal service is a big item and there should be no question but that the amount of these services, which is such a necessary and integral part of this work, should be paid out of the appropriation for this item.

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Paragraph D is designated as "Operation". It provides for materials and supplies, the kind of which are specifically enumerated. It also provides for general expenses, including communication, regu-
lative transportation of things, travel in and out the State, travel and other general expense. It is a rule of statutory construction, known as the rule of "ejusdem generis" that where general words in a statute follow specific words designating special things, the general words are, as a rule, limited to cases of the same general nature as those which are specified (City of St. Louis vs. McLaughlin, 49 Mo. 559; Tucker vs. Frisco Railway Company, 233 S. W. 512).

Under this rule the phrase "other general expenses" is to include only the same type of expenses as are enumerated in the special words that go before, that is, communication, traveling and transportation expenses. Therefore, personal service cannot be paid out of this item of the appropriation.

CONCLUSION.

It is, therefore, the opinion of this department that the personal services rendered in erecting new structures and installing new equipment in State Parks may be paid out of items 1 and 3, paragraph B of Laws of Missouri, 1937, page 168. Compensation for supervising and labor used in improving and developing State Parks may be paid out of item 4, paragraph B. For labor in repairing buildings and building equipment enumerated in paragraph C, the amount appropriated therein may be looked to for payment.

It is, further, the opinion of this department that no compensation for personal services may be paid out of item 2 of paragraph B or out of paragraph D.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

J. E. TAYLOR,
Assistant Attorney General.