

STATE VETERINARIAN:  
TRAVEL EXPENSES WITHIN  
AND WITHOUT THE STATE:

State Veterinarian may receive  
travel expenses within and without  
the state when the same are incurred  
in performance of official duties.

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Honorable H. E. Curry  
State Veterinarian  
Jefferson City, Missouri

Dear Sir:

This is in reply to yours of recent date wherein you submit the question of whether or not the State Veterinarian has authority to travel outside of the state of Missouri on official business and be reimbursed from the public funds for such travel and incidental expenses.

As a general proposition before an officer may be authorized to incur expenses for traveling within or without the state he must be able to point to the statute which authorizes him to perform such acts. Section 12519, R. S. Missouri, 1929, provides for the appointment of the State Veterinarian by the State Board of Agriculture. Section 12521, R. S. Missouri, 1929, provides that this official shall be under the control of the State Board of Agriculture.

By the Act of 1933, Laws of Missouri, 1933, page 167, the State Board of Agriculture was abolished and the powers and duties of that board were vested in the Department of Agriculture and the Commissioner of Agriculture.

Section 12520, R. S. Missouri, 1929, provides as follows:

"Said veterinary surgeon shall, before entering upon the discharge of his duty, file with said board of agriculture his oath of office with a satisfactory and sufficient bond for the faithful performance of his official duties. He shall

have his office with or near the office of the secretary of the state board of agriculture; shall act only as an expert, and shall, when practicable, devote all time possible to the investigation of the nature of, causes of and remedies for the diseases of domestic animals. The secretary of the state board of agriculture shall have charge of all clerical work pertaining to the veterinary service."

By this section it will be noted that the veterinarian is required to devote all of his time that he is able to, for the purpose of investigating the nature, causes and remedies of diseases of domestic animals. Section 12353, Laws of Missouri, 1933, page 168, provides in part as follows:

"The State Commissioner of Agriculture shall be and is hereby constituted the official who shall have supervision of the State Fair and of all the legalized departments of the state which are of a regulatory nature for the advancement of horticulture and agriculture.  
\* \* \* \* \*  
The Commissioner shall have charge of the veterinary service of the state, the appointment of the state veterinarian, and, with the advice of the veterinarian, of deputy veterinarians, and other assistants. The Commissioner is hereby clothed with the power of reasonable quarantine in relation to the regulatory laws of the State Department of Agriculture, and it is further provided that the power of quarantine in relation to livestock diseases shall include poultry. It shall be the duty of the Commissioner to gather and compile helpful statistics and information,

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singly or in co-operation with the federal government, relating to horticulture and agriculture, and may publish bulletins not duplicating available educational bulletins of the College of Agriculture and the United States Department of Agriculture. \* \* \*

By this section it would appear that the Commissioner of Agriculture through the State Veterinarian is required to cooperate with the federal government in gathering and compiling helpful statistics and information relating to horticulture, agriculture, etc. The duties imposed by this section would indicate that the State Veterinarian might have some official duties outside the state of Missouri. By Section 12548, R. S. Missouri, 1929, the salaries of the state Veterinarian and his deputies are fixed, and this section also provides that such officers shall receive necessary traveling expenses in the discharge of his official duties payable out of funds provided for the maintenance of the veterinary service. This section, however, does not state whether or not such official's traveling expenses shall be within or without the state.

The Appropriation Act of 1939, which is House Bill 716, Section 10, subdivision D, sheds some light on this question. It is the appropriation for the State Veterinarian and is as follows:

"General expense, including communication, transportation of things, travel within and without the State, printing and binding, supplies, stationery, office supplies, premiums on bonds, and other necessary expenses ..... \$7,000.00"

This act would indicate that the lawmakers intended to pay the traveling expenses of the veterinarian, both within and without the state. However, the Appropriation Act is not controlling on that question. This point was discussed in State ex rel. Bradshaw v. Hackmann,

276 Mo. 600, at 609, wherein the court said:

"So, again we say, it is not to the appropriation act (save at times as a legislative construction, persuasive in determining the meaning of an otherwise obscure statute) that we must look, but to those statutes which created the office of Warehouse Commissioner and which define his duties, and the duties of the Grain Inspection Department of which he is the head."

If the duties of the official, either by express statute or by implication, require such officer to travel outside the state, then such expenses could be paid from the public funds providing an appropriation is made therefor.

Again in the Bradshaw case, l. c. 610, the court said:

"We do not mean to say that the expression 'travel within the State' is to be regarded as a legal fetich, or that such a requirement is to be wholly decisive of the liability of the State to pay traveling expenses. It so occurs here that the statutory duties of the Warehouse Commissioner, as at present defined, are such as in the very nature thereof cannot entail travel outside of the State. If, however, the statutory duties of an officer of this State be such as require, or entail in their proper performance, travel beyond the borders of this State, then such travel is as much a necessary expense, for which the State would be liable, as is travel within the State."

In State ex rel. Lamkin v. Hackmann, 275 Mo. at 47, the question of the payment of traveling expenses of the state superintendent of schools to a convention outside of the state of Missouri was under consideration,

and at l. c. 53, the court said:

"The point presented is a narrow one. Is the State under the law which provides for the duties of the State Superintendent of Public Schools (hereinafter called for brevity, Superintendent) liable to pay the traveling expenses of such Superintendent, incurred under the circumstances set forth in our statement of the case? \* \* \* \* \*

Again at l. c. 57, the court said:

"\* \* \* It is, we think, necessary if standards and efficiency in education in this State are to be kept abreast of the progress in other States, that the head of the public school system should be advised as to what educators elsewhere are doing. No better way perhaps for doing this has been devised than by conventions and conferences of the leaders in educational progress. That it is possible for the privilege of attending such conventions at the expense of the State to be abused is no argument in favor of entirely cutting off the necessary privilege. If it is proper and necessary to attend these conferences, some one must be vested by law with the authority of deciding upon the expediency of it. We think the question of the necessity and expediency of incurring the expense in issue for the purpose mentioned has been by the statute conferred on the Superintendent of Schools, and not upon the State Auditor. If the privilege be abused the people exercising their political power can correct the abuse at the polls. \* \* "

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In the Lamkin case, supra, it will be noted that the statute creating the office of the superintendent of schools did not, in express language, authorize the expenditure of public funds for travel outside of the state of Missouri for which the bill was presented. However, in that case it was held that the statute fixing the duties of the superintendent of schools contemplated the necessity of the superintendent attending conventions either within or without the state in order to properly perform his duties.

As stated in Section 12520, supra, the State Veterinarian is required to devote all time possible to the investigation of the nature, causes and remedies of diseases of domestic animals, and to cooperate with the federal government in gathering and compiling helpful information and statistics in relation to agriculture. Whether or not it is necessary to go outside the limits of the state of Missouri to perform these duties, this department is not in a position to state. If it is necessary for the State Veterinarian to travel outside of the state of Missouri in the performance of his official duties, then with the Appropriation Act of 1939 as it is, and since said Section 12548 authorizes an expenditure for traveling, it would follow that such expenditure would be lawful and the payment therefor would be authorized.

#### CONCLUSION.

From the foregoing it is the opinion of this department that if it is necessary for the State Veterinarian to travel outside the state of Missouri for the purpose of investigating the nature, causes and remedies for diseases of domestic animals, and in cooperating with the federal government in gathering and compiling helpful information and statistics in relation to agriculture, then such veterinarian may be reimbursed for traveling and incidental expenses incurred in connection with such official business.

Respectfully submitted

APPROVED:

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