

APPROPRIATION:
STATE BUILDING COMMISSION:

Appropriations may be made to
this Commission.

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Honorable Forrest C. Donnell
Governor of Missouri
Jefferson City, Missouri

Dear Sir:

We are in receipt of your request for an opinion
dated October 26, 1942, which is as follows:

"Paragraph Twenty of proclamation,
dated today, by which is convened
the Sixty-First General Assembly of
the State of Missouri in extra ses-
sion, reads as follows:

'To make appropriation, out
of the State Treasury, charge-
able to the General Revenue
Fund, of a sum for repair, re-
modeling and reconstruction of
Penal and Eleemosynary build-
ings which were constructed,
under the supervision of the
State Building Commission, in
accordance with Senate Bill
No. 1 enacted by the Fifty-
Seventh General Assembly (Extra
Session) and set forth at page
107 and following, Laws of Mis-
souri (Extra Session) 1933-1934.'

"Your opinion, as soon as possible,
is respectfully requested on the fol-
lowing question:

"May an appropriation be legally made to the State Building Commission of a sum for repair, remodeling and reconstruction of Penal and Eleemosynary buildings which were constructed under the supervision of said State Building Commission, in accordance with Senate Bill No. 1 enacted by the Fifty-Seventh General Assembly (Extra Session) and set forth at page 107 and following, Laws of Missouri (Extra Session) 1933-1934?"

In November, 1934, pursuant to a Joint and Concurrent Resolution of the General Assembly, the people added Section 44d to Article IV of the Constitution of Missouri. The Resolution appears at page 174 of the Laws of Missouri, Extra Session, 1933-1934. The amendment is one of the exceptions to the general law with reference to the powers of the General Assembly to contract for and authorize a debt.

Under this section bonds in the aggregate of \$10,000,000 were authorized for the purpose of repairing, remodeling and rebuilding state buildings and properties at all or any of the eleemosynary and penal institutions of the state, and constructing additions thereto and additional buildings wherever necessary. It was further provided that the General Assembly should enact such laws as might be necessary to carry the amendment into effect. It was provided that funds arising from the sale of the bonds and funds received from the Federal Government in aid of the purpose of the amendment should be paid into the state treasury and into a fund designated "The State Building Fund," which should stand appropriated without legislative action, and for the payment of all expenses incidental to the purposes therein specified, including the payment of the principal and interest of said bonds.

After the passage of such Joint and Concurrent Resolution, but prior to its adoption by the people, the General Assembly passed Senate Bill No. 1, which appears at

page 107, Laws of Missouri, Extra Session, 1933-1934. This Act was approved January 9, 1934, and carried an emergency clause, which is as follows:

"Whereas, the state eleemosynary and penal institutions are overcrowded, and by reason thereof, the health and safety of the inmates thereof are impaired; and, whereas said institutions are in need of repairs and additions thereto; and, whereas there has been submitted to the people of this state, by the Fifty-seventh General Assembly of Missouri, in extra session, a proposed amendment to Article IV of the Constitution of this state, providing for a new section in said Article IV, to be known as Section 44a authorizing a bond issue of Ten Million Dollars (\$10,000,000.00) for the purpose of improving said institutions; this act is declared to be necessary for the immediate preservation of the public peace, health and safety, and an emergency within the meaning of the Constitution is hereby declared to exist. Wherefore, this act shall take effect and be in force when and after said proposed Constitutional amendment is adopted by the people of this state."

By this emergency clause it was specifically provided that this Act should be in effect when and after the proposed constitutional amendment was adopted.

Section 1 of the Act is as follows (page 107):

"That for the purpose of repairing, remodeling or rebuilding, or repairing, remodeling and rebuilding all or any of the eleemosynary or penal institutions of this State, for building additions

thereto and additional buildings wherever necessary, there is hereby created a Board of Commissioners, to be styled, 'The State Building Commission,' which shall consist of the Governor, Attorney General, Secretary of State, State Auditor, State Treasurer, and State Superintendent of Schools. The Governor shall be ex-officio chairman of said commission, and the commission shall elect one of its members as vice-chairman. The Chairman shall preside at all meetings of the Commission, sign its minutes and records and perform the usual and customary duties of such position. In the absence of the chairman, the vice-chairman shall perform the duties of the chairman. The commission shall maintain its office and hold its sessions at the Seat of Government, and meet as often as the business of the commission may require. A majority of the commission shall constitute a quorum for the transaction of business. The members shall receive no compensation for services on the commission, but shall be allowed reimbursement for all traveling and other expenses actually incurred in carrying out the purposes of this act."

While Sections 3 and 4 of the Act deal directly with the funds to be derived from the \$10,000,000 bond issue contemplated by the proposed constitutional amendment, Section 44d, the remainder of the Act is apparently general in its scope. The repairing, remodeling or construction of buildings mentioned in Section 1 is not limited to those financed by the funds from such proposed bond issue. In addition, the membership of The State Building Commission is comprised of permanent officers of the state. A comprehensive scheme of the activities of such Commission is embraced within the Act which is general in character. For instance, provisions

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with reference to contracts for the construction and improvement of buildings are not limited to work to be paid for by the bond issue.

Section 10 of the Act provides (page 115):

" * * * On presentation of said certificate to the State Auditor, he shall draw his warrant on the State Treasurer for payment of the same out of money in the state treasury appropriated for its payment. All other accounts or demands may be allowed by the commission on proper vouchers therefor, and when the same shall have been certified to the State Auditor with a duplicate of said voucher attached, the Auditor shall draw his warrant therefor in favor of the proper person or persons on the State Treasury, payable out of the monies therein applicable to the payment of said accounts."

While the moneys to be derived from the bond issue and funds contributed by the Federal Government were by the constitutional amendment automatically appropriated, yet here the Legislature refers to moneys appropriated for the payment of bills and expenses. This would indicate that the Legislature had in mind moneys that might be appropriated to the Commission by subsequent Legislatures.

The primary rule of construction of statutes is to ascertain the lawmakers' intent, from the words used, if possible, and to put on the language of the Legislature, honestly and faithfully, its plain and rational meaning, and to promote its manifest purpose. (Artophone Corp. v. Coale, 133 S. W. (2d) 343, 345 Mo. 344; State ex rel. McKittrick v. Carolene Products Co., 144 S. W. (2d) 153, 346 Mo. 1049.)

The meaning of the language of the statute is narrowed or broadened to conform with the legislative intent,

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as gathered from its entirety, history and purpose. (Rust v. Missouri Dental Board, 155 S. W. (2d) 80.)

There can be no doubt but that the State Building Commission is now in existence. It has never been destroyed by legislative action, and we are informed that there is in The State Building Fund at the present time the sum of \$16,087.53.

While Senate Bill No. 1 was not carried forward in the 1939 revision, such omission does not repeal it.

" * * * They do not appear in the revisions of 1879 and succeeding revisions. Even so, the omission from the revisions does not operate to repeal said sections. Meriweather v. Overly, 228 Mo. 218, 129 S. W. 1; Bird v. Sellers, 122 Mo. 23, 26 S. W. 668."

(State ex rel. Asotsky v. Ricks, 142 S. W. (2d) 742, l. c. 743, 346 Mo. 640.)

While the Legislature evidently was primarily concerned with the expenditure of the bond issue funds and Federal matching funds, yet it saw fit to create a board with a permanent membership and specifically gave to it powers and duties that apply to the construction, alteration and repair of buildings other than those of necessity financed from the funds provided for in said Section 44d of the Constitution. The act does not limit the duties of the Commission by express terms to the handling of the bond issue money. The portion of Section 10 above quoted mentions appropriations. If the Commission was created for the sole purpose of handling the bond money, such words would be meaningless, as that money was automatically appropriated by the constitutional provision.

Taking into account the emergency clause on said Senate Bill No. 1, the Legislature apparently intended that The State Building Commission should be a permanent body; that it should first use the funds provided for by said Section 44d of the Constitution as rapidly as possible after

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its adoption; and that it could expend such funds as might later be appropriated to it by future Legislatures to carry out the purposes of the Act.

CONCLUSION

It is, therefore, the opinion of this department that an appropriation may be legally made by the General Assembly to the State Building Commission for the purpose of repairing, remodeling and constructing penal and eleemosynary buildings which were constructed under the supervision of said State Building Commission in accordance with Senate Bill No. 1 as enacted by the Fifty-Seventh General Assembly, Extra Session, and as set forth at pages 107, et seq., Laws of Missouri, Extra Session, 1933-1934.

Respectfully submitted

VANE C. THURLO
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APPROVED:

ROY MCKITTRICK
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