

APPROPRIATION:

How amounts expended under six-month-bill  
is to be charged against biennium bill.

BUDGET ALLOTMENT:

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July 22, 1943

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



Dear Sir:

Your letter of July 21, 1943 is as follows:

"The General Assembly, in Senate Committee Substitute for House Bill No. 4, made, for State Hospital No. 1 for the first and second quarters of the present biennium, a combined appropriation for Additions, Repairs and Replacements. Said Hospital has been allotted the money appropriated in the appropriation so made by Senate Committee Substitute for House Bill No. 4. House Bill No. 409, in which bill the biennial appropriation was made, sets forth, for said Hospital, a specific amount for Additions and a specific amount for Repairs and Replacement.

"A like condition exists with respect to various departments, and I desire your below requested opinion as a guide in connection with the preparation of allotment sheets for various departments.

"I request your opinion on the question: 'What part of the money so allotted should be charged against the biennial appropriation for Additions and what part of said money should be charged against the biennial appropriation for Repairs and Replacements?'"

This question arises out of the difference between the division of appropriated funds as made in Senate Committee Substitute for House Bill No. 4 and House Bill No. 409. Section 1 of Senate Committee Substitute for House Bill No. 4 provides, in part, as follows:

"To pay salaries, wages and per diem of the officers and employees. There is hereby appropriated out of the State Treasury, chargeable to the funds herein

designated, the various amounts set out to pay the salaries, wages and per diem of the officers and employees and other expense of \* \* \* \* State Hospital No. 1, \* \* \* \* for the period beginning January 1, 1943, and ending June 30, 1943, as follows:

\* \* \* \* \*

"For Hospital No. 1--

Payable out of General Revenue Fund, as follows:

\* \* \* \* \*

"B. and C. Additions, Repairs and Replacements. . . . . 1,000.00"

Section 1 of House Bill No. 409 provides, in part, as follows:

"There is hereby appropriated out of the State Treasury, chargeable to the funds herein designated, the various amounts set out to pay the salaries, wages and per diem of the officers and employees and other expense of \* \* \* \* State Hospital No. 1, \* \* \* \* for the years 1943 and 1944, as follows:

\* \* \* \* \*

"For Hospital No. 1.

Payable out of General Revenue Fund, as follows:

\* \* \* \* \*

"B. Additions:

Furniture, office and building equipment, operative equipment, livestock, labor and materials for construction and installation thereof. . . . . 10,000.00

"C. Repairs and Replacements:

Labor, material and supplies for repairing buildings, building equipment, furniture, office and operative equipment and structures other than buildings. . . . . \$15,000.00"

It is to be noted that House Bill No. 4 covers a period beginning January 1, 1943 and ending June 30, 1943 while House Bill No. 409 covers the years of 1943 and 1944. That duplication, however, is taken into account by Section 10 of House Bill No. 409

which is as follows:

"All expenditures made under the provisions of Senate Committee Substitute for House Bill No. 4, as passed by the 62nd General Assembly, shall be charged against the appropriations set out in this Act, and in no case shall the expenditures in Senate Committee Substitute for House Bill No. 4, as passed by the 62nd General Assembly and the expenditures authorized under the provisions of this Act exceed the total amount of the items as set out in this Act."

The question presented involves construction and application of Section 10, supra. The difficulty arises due to the fact that House Bill No. 4 carried the item "Additions, Repairs and Replacements. . . \$1,000.00" all together, while House Bill No. 409 separates the items into "Additions. . . \$10,000.00" and "Repairs and Replacements. . . \$15,000.00". Thus, in compliance with Section 10, must the \$1,000.00 appropriated for Additions, Repairs and Replacements in House Bill No. 4 be subtracted from the \$10,000.00 for Additions or the \$15,000.00 for Repairs and Replacements as provided in House Bill No. 409, or is a portion of the \$1,000.00 to be subtracted from each, and if so, what portion? Or must the amounts expended from the \$1,000.00 for Additions, Repairs and Replacements provided for in House Bill No. 4 be charged to the \$10,000.00 for Additions or the \$15,000.00 for Repairs and Replacements as provided in House Bill No. 409, or is a portion of the amount that has been expended from the \$1,000.00 to be charged to each, and if so, what portion?

There seems to be two methods which suggest themselves. The first, which would be applicable to the first question we have formulated, is that the \$1,000.00 provided in House Bill No. 4 for Additions, Repairs and Replacements be divided between the items "B. Additions. . . \$10,000.00" and "C. Repairs and Replacements. . . \$15,000.00" in the same ratio that the sums of \$10,000.00 and \$15,000.00 are to \$25,000.00, said sum being the total figure authorized in House Bill No. 409 for Additions and Repairs and Replacements. This method would require a subtraction of \$400.00 from the \$10,000.00 provided for Additions, and \$600.00 from the \$15,000.00 provided for Repairs and Replacements. The second method, applicable to the second question stated, is that the \$1,000.00 provided in House Bill No. 4 for Additions, Repairs and Replacements be divided between the items "B. Additions. . . \$10,000.00" and "C. Repairs and Replacements. . . \$15,000.00" on the basis that it was actually expended. That is, if \$950.00 was spent for Additions and \$50.00 was spent for Repairs and Replacements, then those amounts must be charged to their proper

item in House Bill No. 409. We think the following discussion clearly demonstrates which of the foregoing methods is correct and which is incorrect.

An appropriation act is an authorization by the General Assembly to the agency to spend during a specified period a sum not in excess of the amount fixed (Sec. 19, Art. 10 Mo. Const.; See also concluding clause of Sec. 10, supra). In other words, House Bill No. 409 authorizes State Hospital No. 1 to spend during the years 1943 and 1944, for the item "Additions", a sum not in excess of \$10,000.00, and for the item "Repairs and Replacements" a sum not in excess of \$15,000.00. Now, let us assume that all of the \$1,000.00 as provided in House Bill No. 4 has been expended in the purchase of additions and that none has been expended for repairs and replacements, but that we divide the \$1,000.00 on the basis of 40 per cent or \$400.00 to Additions and 60 per cent or \$600.00 to Repairs and Replacements. On the basis of such division, it would be said that there remains \$9,600.00 yet to spend in Additions and \$14,400.00 yet to spend in Repairs and Replacements. Further assume that during the balance of the current biennium Hospital No. 1 spends the remaining \$9,600.00 for Additions. At the end of the biennium it then appears that while the General Assembly has said to the Hospital authorities you may spend \$10,000.00 for Additions in the years 1943 and 1944, there has been spent for Additions during said period the sum of \$10,600.00.

We think this discussion clearly demonstrated the fallacy of the first method, since it is not to be controverted that an agency of the state cannot spend more for "Additions" during a biennium than has been appropriated for said purpose. This factor must be kept in mind in ascertaining the meaning of Section 10, supra, and would control if said section was ambiguous. However, we think it is very clear in requiring that the "expenditures" made out of the funds appropriated in House Bill No. 4 be charged against the amounts appropriated in House Bill No. 409. We stress that it does not require the amount "appropriated" in House Bill No. 4 to be deducted from the amount appropriated in House Bill No. 409. Thus the nature of the expenditure, that is, whether it was for an Addition or for a Repair and Replacement, would govern to determine where the charge is to be made against the sums provided in House Bill No. 409.

In our opinion, the second method outlined is the only one which may legally be used since only by basing the charges to be made against House Bill No. 409 on the actual nature of the expenditure made under House Bill No. 4, can we confine the agency within the total authorization fixed in House Bill No. 409 for the objects specified.

July 22, 1943.

This conclusion will require knowledge of the amounts expended, and of the obligations outstanding against the sums appropriated in House Bill No. 4 for Additions, Repairs and Replacements, and the nature of each, before it can be ascertained how much of the \$10,000.00 for Additions and of the \$15,000.00 for Repairs and Replacements provided in House Bill No. 409 is available for allotment.

Respectfully submitted,

LAWRENCE L. BRADLEY  
Assistant Attorney General

APPROVED:

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ROY MCKITTRICK  
Attorney General

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