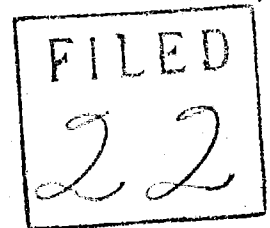


MEMORIAL AIR PORTS:

Under House Bill 192 city receiving allotment of less than \$10,000 may at a latter date receive further allotment which will make up the full \$10,000 limit.

April 19, 1947



Mr. Hugh Denney
Director
Department of Resources and Development
State Office Building
Jefferson City, Missouri

Dear Mr. Denney:

This is in reply to your letter of April 16, 1947, requesting an opinion from this department, which reads as follows:

"In your opinion of December 9, 1946, most of the points relative to compliance by city governments with the State Memorial Airport matching fund were clarified. However, the following question has been raised by a community, and we again seek your advice and opinion in this matter:

"If a city files for less than the full \$10,000 of state matching funds at this time, say \$6,000, and then at a later date desires to file for an additional \$4,000 of state matching funds, would such latter application be legal?"

The Act authorizing cities, towns and counties to establish memorial airfields with state assistance, is House Bill 192 of the 63rd General Assembly, which is in part as follows:

"In appreciation of the services of our gallant Armed Forces and to perpetuate

the memory of their heroic achievements in the war against Germany, Japan and their Allies and to promote the advancement of aviation in the name of those who gave their lives as members of our gallant Armed Forces in the war against the aforesaid enemies, cities, towns and counties are hereby authorized to purchase sites and construct and operate air fields in such counties or near such cities and towns and to receive free technical advice from the Department of Resources and Development. Provided further that when any city, town or county in Missouri shall certify to the Governor that it has appropriated a specific sum for the aforesaid purpose and is ready to proceed with the purchase or construction of such air fields a like sum not exceeding ten thousand dollars (\$10,000.00) shall be allotted to said city, town or county from the appropriation hereinafter made for such purpose * * * * *

We realize that if a city appropriates a sum less than \$10,000 for the above purpose, which is matched by the state, and then is allowed at a later date after appropriating a sum which raises the total appropriation to \$10,000 to receive a further allotment from the state, an added burden will be placed upon the administering officials and a certain amount of confusion may result. Further, there is no express authority set out for the proposed plan of allotment. However, this fact should not be given a great deal of weight because of the lack of a definite plan of procedure concerning the administration of this law. The absence of express authority should make little difference under the present circumstances.

The controlling factor in construing this or any statute, is to determine the intention of the Legislature with respect to the purpose or object of the Act. In the case of *City of St. Louis v. James Braudis Coal Co.*, 137 S. W. (2d) 668, the court said at page 669:

"We are in full accord with appellant, that the primary rule of construction,

. whether of statutes or ordinances, is to ascertain and give effect to the lawmakers' intention, and that since such laws are presumably passed in the spirit of justice and for the welfare of the community, they should be interpreted, if possible, so as to further that purpose, and that frequently courts to attain that end, look less to the letter or words of a statute or ordinance and more to the context, the subject-matter, the consequence and effect, and the reason and spirit of the law in endeavoring to arrive at the purpose of the lawgiver."

House Bill 192, by its terms, unquestionably was enacted for the purpose of perpetuating the memory of the heroic achievements of our Armed Forces and "to promote the advancement of aviation." And to properly carry out these purposes, cities, towns and counties, which are qualified to establish memorial airports, must be allowed to take advantage to the fullest extent of the state assistance provided for in said Act. In the case of Pate v. Ross, 84 S. W. (2d) 961, the court said, l. c. 963:

"Likewise it is held that statutes should be construed so as to effectuate the purpose of its enactment, to accomplish which purpose words may be restricted or extended. Kerens v. St. Louis Union Trust Co., 283 Mo. 601, 223 S. W. 645, 11 A. L. R. 288."

The proposed plan of appropriation and allotment, while not expressly set out, is in complete accord with the purposes of the Act and should therefore be allowed.

Conclusion

When a city, town or county, under the provisions of House Bill 192 of the 63rd General Assembly, requests and receives an allotment of state matching funds in an amount less

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than \$10,000, such city, town or county may, at a latter date, request and receive an additional allotment of state matching funds such as will make up the full \$10,000 limit.

Respectfully submitted,

DAVID DONNELLY
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APPROVED:

J. E. TAYLOR
Attorney General

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