

APPROPRIATIONS: Appropriation available for six months after expiration of period for which made to pay obligations lawfully incurred during said period.



December 17, 1947

12/31

Honorable B. H. Howard
State Comptroller
Department of Revenue
Jefferson City, Missouri

Dear Sir:

We have your letter of recent date which reads as follows:

"Please furnish us an opinion as to whether or not we should honor a request for the payment of an obligation incurred by the issuance of a purchase order in the previous appropriation period. In other words, if the order was issued during the 1946-47 fiscal period and delivery of the goods is not made before the appropriation expires on December 31, 1947, can payment be made and charged to the appropriation for the 1947-48 fiscal period?

This question has been raised by various departments throught the state, and we will appreciate a reply at your earliest convenience."

The Constitution of 1945 made marked changes in the handling of state finances. Therefore appropriations had been made for biennial periods, that is, for periods of two calendar years. The Constitution of 1945 prescribed a fiscal year for the state which runs from July 1 of one year to June 30 of the following year. Section 23 of Article IV of said Constitution reads as follows:

"The fiscal year of the state and all its agencies shall be the twelve months beginning on the first day of July in each year. The general assembly shall make appropriations for one or two fiscal years, and the 63rd General Assembly shall also make appropriations for the six months ending June 30, 1945 * * #"

By the foregoing provision, the fiscal year of the state does not correspond to a calendar year, but it runs from July 1st of one year to June 30th of the succeeding year. The General Assembly is required to appropriate money for either one or two fiscal years. Section 28 of Article IV of said Constitution provides as follows:

"No money shall be withdrawn from the state treasury except by warrant drawn in accordance with an appropriation made by law, nor shall any obligation for the payment of money be incurred unless the comptroller certifies it for payment and the state auditor certifies that the expenditure is within the purpose of the appropriation and that there is in the appropriation an unencumbered balance sufficient to pay it. At the time of issuance each such certification shall be entered on the general accounting books as an encumbrance on the appropriation. No appropriation shall confer authority to incur an obligation after the termination of the fiscal period to which it relates, and every appropriation shall expire six months after the end of the period for which made."

Before an obligation can be lawfully incurred, therefore, there must be a certification that there is an appropriation to cover said obligation and that there is an unencumbered balance in said appropriation to pay the obligation. An encumbrance against said appropriation is entered upon the books at the time the obligation is made so that it will be certain that the obligation will be paid. The last sentence in the last quoted constitutional provision provides that "No appropriation shall confer authority to incur an obligation after the termination of the fiscal period to which it relates." That is to say, that at any time during the fiscal period or periods for which an appropriation is made, obligations can be incurred against said appropriation, but such obligations cannot be incurred after the expiration of said fiscal period or periods. The appropriation itself does not expire until six months after the end of the fiscal period or periods for which it was made. That means that the appropriation is available for six months beyond said fiscal period or periods for the payment of obligations

which were legally incurred during such period or periods. In other words, obligations incurred on behalf of the state must be paid out of appropriations made for the period or periods in which said obligations are incurred, and if such obligations are legally incurred, they can be paid at any time during said period or periods and six months thereafter.

Conclusion

It is, therefore, the opinion of this office that obligations lawfully incurred on behalf of the state must be paid out of appropriations made for the fiscal period or periods in which said obligations are incurred, but that payment of such obligations can be made at any time within six months after the expiration of the period or periods for which the proper appropriation was made.

Yours very truly,

HARRY H. KAY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General.

HHK/vlv