

DEPARTMENT OF
BUSINESS AND
ADMINISTRATION:

No appropriation may be made for
Bi-State Development Agency
subsequent to December 31, 1951.

XXXXXXXXXXXX

JOHN M. DALTON



March 10, 1953

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J. C. Johnsen

Mr. Bert Cooper, Director
Department of Business and
Administration
State Office Building
Jefferson City, Missouri

Dear Sir:

Reference is made to your request for an official
opinion of this department reading as follows:

"The Bi-State Development Agency was created by an act of the General Assembly in 1949; Session Acts 1949, Page 587. An identical bill was passed in the General Assembly of Illinois. However, the Legislature in Missouri attached the following amendment to the compact in Section 4, 'Provided, that no appropriation of moneys from state funds in support of the Bi-State Agency herein created or in support of the project provided for in the compact herein set out shall ever be made by the State of Missouri after December 31, 1952.' The Bi-State Agency requested an appropriation by the 66th General Assembly. A token of the amount was passed but had a clause attached requiring its expenditure prior to December 31, 1952. An interpretation by the Attorney General held that the prohibition of the law specified above, 'Shall ever be made' referred to appropriation and not to the expenditure of the funds.

"As a result of the above interpretation, a second appropriation request made by the Bi-State Agency and an appropriation was passed by the House. The Senate did not act on the measure until after January 31, 1952, consequently turned the appropriation down due to the prohibition clause. The agency has raised funds by donation to match the funds from Illinois

to operate for the past year.

"When the Statutes were revised in 1949, the prohibition clause in the law was inadvertently omitted. The agency now has requested an appropriation of \$28,430.00 for the biennium 1953-55.

"As director of the Department of Business and Administration, I would appreciate having the answer to the following questions to guide us in our procedures:

"1. Does the prohibition clause in the 1949 act of the General Assembly now legally stand repealed?

"2. Does a new bill have to be introduced and passed to clarify and legalize the deletion of the prohibition clause?

"3. If an appropriation bill is now introduced after the Governor has acted on the regular budget, can it be considered along with the hearing on the regular budget of the other agencies in the department?

"In other words, does Section 25, Article 4 of the Constitution require separate hearings by committees as well as action on the bill to be delayed?"

Provision for the Bi-State Development Agency was made by two acts of the 65th General Assembly. Senate Bill 99 of that General Assembly, which is found Laws of Missouri, 1949, p. 558, authorized the creation of a compact between the State of Missouri and the State of Illinois. The act sets forth at length and in detail the form of the compact to be entered into between the signatory states and enumerated the powers, duties and authority of the agency to be created. This act was of a more or less temporary nature involving as it did only the organizational steps to be taken in creating the Bi-State Development Agency. However, Section 4 of the act contained the following significant provision:

"* * * Provided, that no appropriation of

moneys from state funds in support of the Bi-State Agency herein created or in support of the project provided for in the compact herein set out shall ever be made by the State of Missouri after December 31, 1951."

Senate Bill 100 of the same General Assembly provided for the permanent working organization in so far as the State of Missouri is concerned of the Bi-State Development Agency. This act is permanent in nature and will continue to serve as the statutory authority of the Bi-State Development Agency to carry out its official functions.

In the 1949 revision, portions of the two acts mentioned here were combined and appear as Sections 70.370 to 70.440, inclusive. Section 4 of Senate Bill 99 of the 65th General Assembly, a portion of which has been quoted supra, was deleted in the Revised Statutes of 1949 as they appear in the official publication. Such action was taken presumably by the revisor of statutes pursuant to statutory authority delegated to such officer by the Committee on Legislative Research. It therefore becomes pertinent to ascertain the extent of the power conferred upon such committee and under such delegated power to the revisor of statutes. Your attention is directed to Section 3.040, RSMo 1949, relating to the powers of the committee on Legislative Research and reading in part as follows:

"* * * But all such laws and provisions now in force or passed at the 1949 session, and not expressly repealed by or repugnant to the provisions of the revised statutes, shall continue in force or expire, according to their respective provisions or limitations."

(Underscoring ours)

Your attention is further directed to a portion of Section 3.060, RSMo 1949, reading as follows:

"1. The committee, in preparing editions of the statutes, shall not alter the sense, meaning, or effect of any legislative act, . . .

"2. It shall have power:

* * *

(3) To transfer sections or to divide or

combine sections so as to give to distinct subject matters a section number, but without changing the meaning; * * *

(Underscoring ours)

We have examined the acts of the 65th General Assembly and do not find that Section 4 of Senate Bill 99 of that General Assembly, appearing Laws of Missouri 1949, p. 558, has been expressly repealed. Neither do we find that such section is repugnant to any other acts of the same General Assembly as exemplified by the Revised Statutes. From the foregoing, we are of the opinion that the published edition of the Revised Statutes of 1949 does not correctly exemplify the status of the law as it exists with respect to appropriations to be made on behalf of the Bi-State Development Agency subsequent to December 31, 1951.

With the limitation still remaining in force upon the power of the present and subsequent General Assembly to make any appropriation to the Bi-State Development Agency, it is, of course, necessary that in order to delete such limitation a specific bill must be passed having that effect.

What we have said heretofore discloses that it is not necessary to pass upon the question which you have proposed as No. 3.

CONCLUSION

In the premise we are of the opinion that:

(1) That the proviso contained in Section 4 of Senate Bill 99 of the 65th General Assembly, Laws of Missouri, 1949, p. 558, remains in full force and effect and prohibits the appropriation by the current General Assembly or any subsequent General Assembly of moneys to the Bi-State Development Agency; and,

(2) That such limitation on the authority of the current General Assembly or any subsequent General Assembly may be removed only by the passage of an act specifically repealing such proviso.

Bert Cooper

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The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Will F. Berry, Jr.

Very truly yours,

JOHN M. DALTON
Attorney General

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