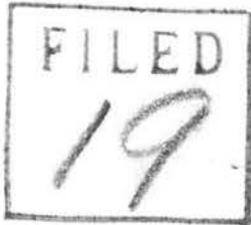


APPROPRIATIONS: Appropriation for the payment of salary of "other necessary employees" may not be used for payment of salary increase of the Director, Department of Business and Administration.



September 2, 1953

Honorable Bert Cooper  
Director, Department of  
Business and Administration  
Jefferson Building  
Jefferson City, Missouri

Dear Sir:

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

"May I have your opinion in the answers to the questions indicated below?

"The Director of the Department of Business and Administration was given a salary increase of \$1,000 per annum to be paid monthly by the passage of Senate Bill No. 325 in the 67th General Assembly.

"In H. B. No. 363 Section 4.390 only \$10,000 was appropriated for 'Salary of director' and \$6,500 for 'Salaries, wages and per diem of other necessary employees'

"The salary increase does not become effective until 8-29-53 and the amount of money needed for the biennium would be approximately \$1,758.

"(1) Could the \$1,758 for the additional statutory salary be paid from the \$6500 appropriation in H. B. 363?

"(2) In case the answer to question 1 is 'no' and inasmuch as the law provides that the salary increase shall be paid

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monthly would it be necessary or advisable to submit a requisition monthly to the comptroller for the payment of the amount of statutory salary increase due that they may accumulate as an obligation of the state?

"A reply before September 20 will be appreciated."

In the following opinion, we have assumed the validity of the salary increase granted the Director of the Department of Business and Administration under the provisions of Senate Bill No. 325 of the Sixty-seventh General Assembly and this opinion is not to be construed as ruling upon any question with respect thereto.

Your attention is first directed to the provisions of Section 28, Article IV, Constitution of Missouri, 1945, reading in part, 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"No money shall be withdrawn from the state treasury except by warrant drawn in accordance with an appropriation made by law, nor shall any obligation for the payment of money be incurred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. \* \* \*"

Your attention is further directed to the provisions of Section 23, Article IV, Constitution of Missouri, 1945, reading in part, as follows:

"\* \* \*Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose."

further, to Section 21.260, RSMo 1949, which reads as follows:

"Appropriations for the operation and maintenance of departments shall be separately itemized; and separate appropriation shall be made for each item of extraordinary operation and maintenance expenditure and for each

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major capital expenditure. Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose."

Keeping the foregoing constitutional and statutory provisions in mind, we have considered Section 4.380 of House Bill No. 363 of the Sixty-seventh General Assembly, This appropriation act reads, in part, as follows:

"Section 4.380. There is hereby appropriated out of the state treasury, chargeable to the General Revenue Fund, the sum of Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750.00) for the use of the Director of the Department of Business and Administration for the payment of salaries, wages and per diem of the Director and necessary employees; for the original purchase of property; for repairs and replacements of property; and for the operating and general expenses; for the period beginning July 1, 1953 and ending June 30, 1955, as follows:

"Personal Service:

Salary of Director. . . . . \$10,000.00

Salaries, wages and per diem of other necessary employees . . . . . 6,500.00

"Total Personal Service. . . . . \$16,500.00

\* \* \*

(Emphasis ours.)

It is apparent that in the enactment of this portion of House Bill No. 363, the Sixty-seventh General Assembly has followed the constitutional and statutory directives found in the provisions of the Constitution and of the Revised Statutes of Missouri, quoted supra, in that the appropriation act has itemized the "purposes" for which the money appropriated thereof may be expended.

You will note that the appropriation made for the payment of the salary of the Director of the Department of Business and Administration was in the exact amount required to pay the then statutory salary of such officer for the en-

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suing biennium, namely \$5,000 per year or a total of \$10,000 for the biennium. The excess was limited to the use of payment of salaries of "other necessary employees." In Webster's New International Dictionary, Second Edition, we find the following definition for the word "other":

"A different or additional one;--the substantive use of OTHER, adj.; \* \* \*"

it, therefrom, appears that in stating the "purpose" of the additional appropriation made under the provisions of the section quoted, the General Assembly has seen fit to limit such "purpose" to one in connection with the payment of the salaries of the "other necessary employees" of the Department of Business and Administration.

We do not pass upon the second question which you propounded. In the event of any controversy arising with respect to subsequent payment of the proportionate part of the salary increase contained in Senate Bill No. 325 of the Sixty-seventh General Assembly, it will be our constitutional and statutory duty to represent the comptroller and we do not desire to be placed in the position of advising any potential adverse party with respect to private rights.

In the premises, we are of the opinion that the appropriation made under Section 4.380 of House Bill No. 363 of the Sixty-seventh General Assembly, of the designated portion to pay the salaries, wages and per diem of "other necessary employees", may not be used for the payment of the increased salary granted the Director of the Department of Business and Administration under the provisions of Senate Bill No. 325 of the same General Assembly.

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