

EMPLOYMENT SECURITY: John L. Porter, Director of the Division of Employment Security of Missouri, is person who has authority to requisition funds from the Unemployment Trust Fund.

JOHN M. DALTON  
XXXXXXXXXXXX

2-4-53



February 4, 1953

J. C. JOHNSEN  
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Mr. John L. Porter, Director  
Division of Employment Security  
Department of Labor and Industrial  
Relations  
Jefferson City, Missouri

Dear Mr. Porter:

This is in answer to your letter of recent date requesting an official opinion of this department, reading as follows:

"I am enclosing herewith a copy of a letter received by me from the Fiscal Service of the Treasury Department which is largely self-explanatory. The pertinent portion of the material referred to in the second paragraph of this letter is taken from a letter dated May 11, 1951, of the Director of Employment Security, Department of Labor, and reads as follows:

"Treasury Department Requirements for Withdrawals From the Unemployment Trust Fund. In order that State agency requisitions for moneys from the unemployment trust fund may be honored by the Treasury Department, whenever the status of the person or persons previously certified has changed, the Treasury Department requires that the following must be submitted directly to it:

"A. An original, signed opinion or certification by the attorney general of the State, or a certified copy thereof, that the individual over whose signature the requisitions are made has duly

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constituted authority under the State law and under resolution of the State agency, if required by law or regulation to make such requisitions. If such qualified individual delegates his authority to requisition funds from the unemployment trust fund, the opinion shall contain reference to the authority for such delegation of power."

Section 288.210 (4), Laws of Missouri, 1951, p. 599, (Sec. 288.220 (4), Missouri Revised Statutes, Cumulative Supplement, 1951) provides as follows:

"Moneys shall be requisitioned from the Missouri account in the federal unemployment trust fund solely for the payment of benefits or for refunds of contributions in accordance with regulations prescribed by the director. The director shall from time to time requisition from the federal unemployment trust fund such amounts, not exceeding the amounts standing to the Missouri account therein, as he deems necessary for the payment of benefits and refunds for a reasonable future period. Upon its receipt the treasurer shall deposit such money in the benefit account and shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of moneys belonging to this state in their custody. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the counter-signature of the director. Any balance of moneys requisitioned from the federal unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned

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shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the director, shall be redeposited with the secretary of the treasury of the United States of America, to the credit of the Missouri account in the federal unemployment trust fund as provided in subsection 3 of this section."

Under the provisions of such subsection, the director of the division has authority to make requisitions for moneys from the Unemployment Trust Fund.

Section 288.190, Laws of Missouri, 1951, p. 595, (Sec. 288.220, Missouri Revised Statutes, Cumulative Supplement, 1951) provides in part as follows:

"The division of employment security of the department of labor and industrial relations shall be under the control, management and supervision of a director who shall be appointed by the governor, by and with the advice and consent of the senate. Such director shall be a citizen and qualified voter of this state, and he shall serve at the pleasure of the governor. \* \* \* "

Section 28.060, RSMo 1949, applicable to the Secretary of State of Missouri, provides as follows:

"He shall keep in his office an abstract of all commissions issued and appointments made by the governor, and shall register therein the substance of each commission, specifying the name of the person appointed, the office conferred, the district or county for which the appointment is made, and the term of office; and when any office shall become vacant he shall enter, in a space to be left for that purpose, a memorandum of such vacancy and the occasion thereof, with a reference to any evidence deposited in his office."

The official records of the Secretary of State of Missouri

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disclosed that on December 22, 1952, at which date the Senate of the State of Missouri was not in session, Forrest Smith, governor of Missouri, appointed and commissioned John L. Porter as Director of the Division of Employment Security of the Department of Labor and Industrial Relations, for a term ending at the pleasure of the governor, and that such commission and appointment of John L. Porter is officially registered in the office of Secretary of State of Missouri.

Mr. John L. Porter, therefore, is at present the Director of the Division of Employment Security of the Department of Labor and Industrial Relations of Missouri, and as such is the person authorized under the laws of this state to requisition funds from the Unemployment Trust Fund.

#### CONCLUSION

It is the opinion of this department that Mr. John L. Porter, Director of the Division of Employment Security of the Department of Labor and Industrial Relations, is the individual who has duly constituted authority under the laws of Missouri to make requisitions for moneys from the Unemployment Trust Fund.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. C. B. Burns, Jr.

Yours very truly,

JOHN M. DALTON  
Attorney General

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