

UNEMPLOYMENT SECURITY: Gordon P. Weir, Director of the Division of Employment Security of Missouri is the person who has authority to requisition funds from the Unemployment Trust Fund.



April 8, 1953

Honorable Gordon P. Weir  
Director  
Division of Employment Security  
Department of Labor and Industrial  
Relations  
Jefferson City, Missouri

Dear Mr. Weir:

This is the opinion, in compliance with your request of recent date for an official opinion of this office, respecting your authority as Director of the Division of Employment Security of the Department of Labor and Industrial Relations of this State, to make requisitions under the statutes of this State from the Unemployment Trust Fund. Your letter in that behalf reads as follows:

"According to the requirements of the Director of Employment Security, Department of Labor, and the Fiscal Service of the Treasury Department, a certification by the Attorney General with respect to my appointment as Director of the Division of Employment Security of the Department of Labor and Industrial Relations is required in accordance with the following:

"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:

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"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 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, Laws of Missouri, 1951, page 599,  
(Section 288.290,4) 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

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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 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 4, the Director of the Division has authority to make requisitions for moneys from the Unemployment Trust Fund.

Section 288.190, Laws of Missouri, 1951, page 595, (Section 288.220, Cumulative Supplement, 1951, Missouri Revised Statutes) reads, 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, respecting the duties of the Secretary of State of Missouri to record commissions of public officials, reads as follows:

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"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 State Senate of the State of Missouri received on March 25, 1953, a statement, in writing, from Phil M. Donnelly, Governor of the State of Missouri, while the State Senate of Missouri was in session in the 67th General Assembly of the State of Missouri, informing the Senate that he had appointed Gordon P. Weir of Greenfield, Missouri, Director of the Division of Employment Security of the Department of Labor and Industrial Relations of Missouri for a term ending at the pleasure of the Governor of Missouri, and requesting the confirmation of such appointment by the State Senate of the State of Missouri; that said appointment of the said Gordon P. Weir was by the State Senate of the State of Missouri in session on March 31, 1953, approved and confirmed, and the Governor was by the State Senate of the State of Missouri so notified thereof, in writing.

That thereafter, to-wit, on the first day of April, 1953, in conformity to such confirmation by the State Senate of Missouri of said appointment of the said Gordon P. Weir to such office, Phil M. Donnelly, Governor of the State of Missouri, on April 1, 1953, appointed and commissioned the said Gordon P. Weir of Greenfield, Missouri, as Director of the Division of Employment Security of the Department of Labor and Industrial Relations of Missouri for a term ending at the pleasure of the Governor; that book 4 at page 126 of the official records of the Secretary of the State of Missouri discloses that said commission and appointment of the said Gordon P. Weir is officially registered in the office of the Secretary of State of Missouri.

#### CONCLUSION

It is, therefore, the opinion of this office that Mr. Gordon P. Weir, Director of the Division of Employment

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Secretary of the Department of Labor and Industrial Relations of Missouri is the person 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. George W. Crowley.

Yours very truly,

JOHN M. DALTON  
Attorney General

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