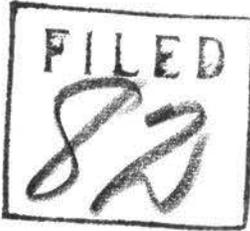


TRAVELING EXPENSES:  
APPROPRIATIONS:  
COMMISSIONS:

Members of the Missouri Commission on Human Rights may be reimbursed for travel expenses incurred in the necessary conduct of the commission's business.



August 26, 1958

Honorable Gregory E. Shinert  
Executive Director  
Missouri Commission on Human Rights  
15 North Grand Boulevard  
St. Louis 3, Missouri

Dear Mr. Shinert:

This is in response to your request for an opinion from this office under date of July 29, 1958.

From your letter we observe that the problem with which we are confronted is whether members of the Missouri Commission on Human Rights are allowed travel expenses as personal services and operations when the law creating the commission states that the eleven members shall serve without compensation.

The Missouri Commission on Human Rights was established by House Bill No. 125 of the Sixty-Ninth General Assembly, Laws of Missouri 1957, p. 299. Section 2 of said bill provides:

"There is hereby created a Commission on Human Rights. It shall consist of eleven members, one from each congressional district of this state, serving without compensation, to be appointed by the governor. One of the members shall be appointed chairman by the governor. Of the eleven members first appointed, three shall be appointed for one year, four for two years, and four for three years; thereafter, all appointments to the commission shall be for a term of three years. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed."

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It is the opinion of this office that members of the Commission on Human Rights are entitled to payment for their traveling expenses in spite of the provision that the commission shall serve without compensation. We quote from 15 C.J.S., p. 62, in part, as follows:

"It has been said the 'compensation' connotes the use of money, implies an accruing benefit in form of an anticipated or prospective profit, a benefit conferred, a consideration, a definite benefit, either absolute or contingent, a specific cash payment or its equivalent in the form of security or obligation which in reasonable certainty will produce payment with due promptness; \* \* \* \*"

We feel that the term "compensation" as used in House Bill No. 125 contemplates benefit or reimbursement for services performed, and we do not believe that the provisions against "compensation" in that house bill is meant to preclude payment for actual expenses involved in the necessary travel for purposes of the business of the commission.

To substantiate our position we would like to call your attention to some cases which lend their support. In *State vs. Yell*, 110 Pac 2d 162, the Washington Supreme Court held that reimbursements provided in a statute which appropriates money to reimburse members of the Legislature for their expenses for sustenance and lodging while absent from their usual places of residence in the service of state did not increase the "compensation" of members of the Legislature within the meaning of the constitutional provision that compensation of public officers shall not be increased or diminished during their terms of office.

In *State v. Thomason*, 221 S.W. 491, 494, the Supreme Court of Tennessee stated:

"That the expenses of public officers incurred in the performance of their official duties are distinct from and not included in the compensation allowed them, unless authoritatively so declared, is well established upon reason and authority, and the apparently uniform consensus of opinion in those cases wherein the question has been considered is to the effect that constitutional prohibitions against change in the compensation fixed for public officers are not intended to be construed as limitations

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upon legislative authority to provide for the expenses of such officials."

We feel, in view of the cases cited, that the Legislature did not intend that the members of the Commission should not be allowed traveling expenses. To leave the commission without benefit of reasonable expense allowances would be to minimize the practical effect of the commission.

Section 9.320 of House Bill No. 346, Sixty-Ninth General Assembly, Second Extraordinary Session provides as follows:

"There is appropriated out of the State Treasury, chargeable to the General Revenue Fund, Nine Thousand Dollars (\$9,000), for the use of the Commission on Human Relations, as provided by law, for personal service and operation, for the period beginning July 1, 1958, and ending June 30, 1959."

Since House Bill No. 34 appropriates out of the State Treasury the sum of Nine Thousand Dollars (\$9,000) for the use of the commission's own personal service and operation we believe that this appropriation may be used for such items as traveling expenses and those items of actual expense incurred by members of the commission in the necessary conduct of the commission's affairs.

#### CONCLUSION

It is the opinion of this office that members of the Missouri Commission on Human Rights may be reimbursed for travel expenses incurred in the necessary conduct of the commission's business.

Very truly yours,

JOHN M. DALTON  
Attorney General

JBS/ajb