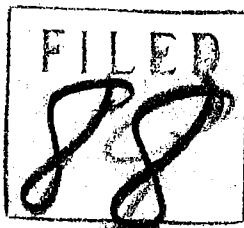


EMPLOYMENT SECURITY: J. E. Taylor, Director, authorized to requisition funds from federal Unemployment Trust Fund.



March 14, 1958

Honorable J. E. Taylor
Director, Division of
Employment Security
Department of Labor and
Industrial Relations
Jefferson City, Missouri

Dear Mr. Taylor:

We have received your request for an opinion of this office, which 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:

'A. An original, signed opinion or certification by the attorney general of the State, or a certified copy thereof,

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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.'

"The provision relating to requisitioning funds from the Missouri Account in the Federal Unemployment Trust Fund will be found in Section 288.290.4, RSMo 1957 Supplement, page 789.

"I respectfully request that you supply me the opinion or certification required by Paragraph A above."

Section 288.290, subparagraph 4, Mo. R.S., 1957 Cum. Supp., provides, in part:

"4. 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, except that money credited to this state's account pursuant to section 903 of the Social Security Act (42 U.S.C.A. §1104), as amended, shall be used exclusively as provided in subsection 5. 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. * * *"

Section 288.220, Mo. R.S., 1957 Cum. Supp., provides, in part, as follows:

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"1. 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. He shall be paid a salary of ten thousand dollars per year from the unemployment compensation administration fund."

By virtue of the above statutory provisions, the person authorized to make requisitions for withdrawals on behalf of the State of Missouri from the Unemployment Trust Fund is the Director of the Division of Employment Security. In our opinion, you are now the person legally holding that office by virtue of your appointment by the Governor of the State of Missouri and the confirmation of such appointment by the Missouri Senate.

The State Senate of the State of Missouri received, on March 4, 1958, a message, in writing, from J. T. Blair, Jr., Governor of the State of Missouri, while the State Senate of Missouri was in session in the 69th General Assembly of the State of Missouri, informing the Senate that he had appointed J. E. Taylor, Jefferson City, Cole County, Missouri, Director of the Division of Employment Security of the Department of Labor and Industrial Relations for the State of Missouri for a term ending at the pleasure of the Governor of Missouri and requesting the consent to, and approval of, such appointment by the State Senate (Senate Journal, 69th General Assembly, Second Extra Session, page 94).

Such appointment of J. E. Taylor was by the State Senate of the State of Missouri, in session on March 11, 1958, approved and confirmed, and the Governor was by the State Senate of the State of Missouri so notified thereof in writing.

Thereafter, in conformity with such confirmation by the State Senate of said appointment, James T. Blair, Jr., Governor of the State of Missouri, did appoint and commission the said J. E. Taylor 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. Pursuant

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to Section 28,060, RSMo 1949, the abstract of said commission is recorded in Civil Register No. 5, page 194, of the Official Records of the Secretary of State of Missouri.

On March 12, 1958, J. E. Taylor took the oath of office as Director of the Division of Employment Security of the Department of Labor and Industrial Relations and entered upon the performance of the duties of that office, and now duly holds the same.

CONCLUSION

It is therefore the opinion of this office that J. E. Taylor, Director of the Division of Employment Security of the Department of Labor and Industrial Relations of the State of Missouri, is the person who has duly constituted authority under the laws of the State of Missouri to make requisitions for moneys from the Unemployment Trust Fund.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Robert R. Welborn.

Yours very truly,

JOHN M. DALTON
Attorney General

RRW:ml