

HIGHWAY DEPARTMENT:  
HIGHWAY FUND:  
UNEMPLOYMENT COMPENSATION:

It would require a constitutional amendment to amend Section 30, Article IV of the Constitution of 1945 in order to permit the Highway Department to pay unemployment compensation to its employees out of the Highway Fund.

May 1, 1959



Honorable Robert Pentland  
Senator, 1st District  
Capitol Building  
Jefferson City, Missouri

Dear Senator Pentland:

You have requested an opinion from this office concerning the following matter:

"Article 4, Section 30, of the Constitution spells out the various things that the Highway Department can spend money for.

"I would like to find out if it would require a constitutional amendment to permit the Highway Department to pay unemployment compensation to its employees."

Section 30 of Article IV of the Constitution of Missouri, 1945, provides that all state funds from certain sources less certain authorized expenses shall be placed in the highway fund to be used for the purposes of constructing and maintaining an adequate system of highways in Missouri as set out in the Constitution. The pertinent part of this section reads as follows:

"For the purpose of constructing and maintaining an adequate system of connected state highways all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacturer, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor vehicles and trailers, and all property taxes,) less the cost, (1) of collection thereof, (2) of

Honorable Robert Pentland

maintaining the commission, (3) of maintaining the highway department, (4) of any workmen's compensation, (5) of the share of the highway department in any retirement program for state employees as may be provided by law, (6) and of administering and enforcing any state motor vehicle laws or traffic regulations, shall be credited to a special fund and stand appropriated without legislative action for the following purposes, and no other:"

It will be noted that this section specifies those matters other than the construction, improvement and maintenance of highways for which these funds may be spent. This exception is in considerable detail and from the provisions of this section we would say that funds from this source could not be used to pay unemployment compensation to the employees of the Highway Department. You will note that the Constitution specifically authorizes payment of workmen's compensation and payment to an employee retirement program. We believe that the payment of unemployment compensation is an expenditure of the same general nature as these specifically enumerated expenses and since the Constitution does not authorize and specifically mention expenditures for unemployment compensation we would conclude that expenditures for such purposes are not authorized and would be unconstitutional.

It would, therefore, require a constitutional amendment to authorize the highway department to pay unemployment compensation to its employees from the highway fund.

If it were proposed that an appropriation to the highway department be made by the Legislature from general revenue for the purpose of paying unemployment compensation to a highway department employee, then other issues would be raised. However, we refrain from going into such other issues in view of the fact that your question is apparently limited to the use of the highway fund for this purpose.

#### CONCLUSION

It is, therefore, on the basis of the foregoing, the conclusion of this office that a constitutional amendment would be necessary to authorize the highway department to pay unemployment compensation to its employees from the highway fund.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Fred L. Howard.

Yours very truly,

John M. Dalton  
Attorney General