



March 7, 1963

Honorable Charles D. Trigg  
Comptroller and Budget Director  
State Capitol  
Jefferson City, Missouri

Dear Mr. Trigg:

We have your request for an opinion as follows:

"At the present time there is a balance of some \$25,000 in the Soldier's Bonus Fund. Would I, as State Comptroller, have authority to transfer this balance to the General Revenue Fund of the State?"

Section 44b, Article IV, was added to the Constitution of 1875 by an amendment adopted August 2, 1921. It authorized the issuance of \$15,000,000.00 in bonds for the purpose of paying a bonus to certain residents of the state who served with the military or naval forces of the United States during World War I.

Senate Bill 1, 51st General Assembly, Second Extra Session, was enacted to implement the foregoing constitutional amendment (Laws, 1921, Second Extra Session, page 6). Section 21 of that act provided that the money realized from the sale of the bonds shall be paid into the state treasury to the credit of the "Soldier Bonus Fund", out of which shall be made the disbursements authorized to be made by Section 44b, Article IV, of the Constitution. The act also provided for a tax to raise the money necessary to pay the principal and interest of the bonds. Another fund, designated "Missouri Soldiers Bonus Bond Interest and Sinking Fund", was created by the act into which the tax moneys were to be paid.

Another constitutional amendment adopted February 26, 1924 (Section 44c, Article IV, Constitution of 1875) authorized the issuance of an additional \$4,600,000.00 bonds for the purpose authorized by Section 44b, Article IV, and the foregoing act of the General Assembly. This amendment provided (with an exception relating to interest) that "All of the provisions of said act shall apply to and govern the issuance and payment of the principal of the bonds herein authorized and the disbursement of the proceeds thereof without further legislative action."

The act of 1921 provided that the application for a bonus thereunder must be filed on or before December 21, 1922. Re-enacting acts were passed from time to time extending the time for filing applications for the bonus, the last extension being to December 31, 1954. You have informed us that all applications have heretofore been finally acted upon and that there are no claims presently pending or which can now be paid out of the Soldier Bonus Fund. You have further informed us that all bonds issued under the authority of the foregoing constitutional provisions and the interest thereon have long since been paid and that there are no obligations presently existing against either of the above funds.

We have also been informed that the entire proceeds of both bond issues have been exhausted in the payment of the bonus claims. In 1955 the General Assembly directed that \$87,700.41 be transferred from the Soldier Bonus Interest and Sinking Fund and credited to the Soldier Bonus Fund (Laws, 1955, page 213, Section 13.170). There was then appropriated out of the State Treasury, chargeable to the Soldier Bonus Fund as thus replenished the sum of \$87,700.41 "or so much as may be needed to pay bonus claims" for the biennium and for prior years (Laws, 1955, page 213, Section 13.180). The present balance in the Soldier Bonus Fund is, therefore, the amount remaining, after payment of bonus claims, of the sum transferred from the Soldiers Bonus Interest and Sinking Fund.

In an opinion to Honorable Robert W. Winn, State Treasurer, dated November 17, 1937, this office gave its construction of what is now Section 33.080, RSMo. That section provides in part:

"All fees, funds and moneys from whatsoever source received by any department, board, bureau, commission, institution, official or agency of the state government by virtue of any law or rule or regulation made in accordance with any law, shall, by the official authorized to receive same, and at stated intervals of not more than thirty days be placed in the state treasury to the credit of the particular purpose or fund for which collected, and shall be subject to appropriation by the general assembly for the particular purpose or fund for which collected during the biennium in which collected and appropriated. The unexpended balance remaining in all such funds (except such unexpended balance as may remain in any fund authorized, collected and expended by virtue of the provisions of the constitution of this state), shall at the end of the biennium and after all warrants on same have been discharged and the appropriation thereof has lapsed, be transferred and placed to the credit of the ordinary revenue fund of the State by the state treasurer. \* \* \*"

In the opinion to Mr. Winn this office listed various funds which should be transferred by the State Treasurer to the credit of the ordinary revenue fund and other funds which were excepted by the terms of the statute. Among the latter funds were the Soldier Bonus Fund and the Soldiers Bonus Interest and Sinking Fund. The reason that the latter funds were excepted was that they constituted funds which were collected and expended by virtue of the provisions of the then Constitution of this State.

The 1875 Constitution has been superseded by the 1945 Constitution. Section 1 of the Schedule specifically provides that:

Honorable Charles D. Trigg -4-

"The Constitution of 1875 and all amendments thereto except as hereinafter provided shall be superseded by this Constitution."

We find no provision in the 1945 Constitution which requires that the balance in the Soldier Bonus Fund shall remain therein. We note that the entire balance therein consists of moneys appropriated by the 68th General Assembly for the purpose of paying bonus claims "for the biennium and for prior years." This purpose has been served and the appropriation has lapsed. It is our opinion, therefore, that by virtue of the provisions of Section 33.080, the moneys presently in the Soldier Bonus Fund should be transferred and placed to the credit of the ordinary revenue fund of the state by the state treasurer. We find no provision which would authorize this to be done by the state comptroller.

Yours very truly,

---

THOMAS F. EAGLETON  
Attorney General

JN:lt