

AGRICULTURE:
ADMINISTRATIVE HEARING
COMMISSIONER:

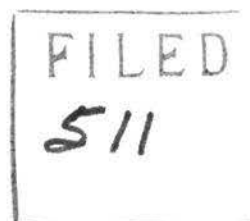
Hearings to organize Commodity Mer-
chandising Councils authorized by
Senate Bill No. 65, 75th General
Assembly, shall be conducted by the

person holding the office of Administrative Hearing Commissioner who
has been appointed by the Governor with the advice and consent of
the Senate pursuant to Section 161.252, RSMo Supp. 1967, and that
the Commissioner of Agriculture is empowered to make the determina-
tion from the record taken of the testimony received at the hearing.

OPINION NO. 511

December 2, 1969

Mr. Dexter D. Davis, Commissioner
Department of Agriculture
Jefferson Building
Jefferson City, Missouri 65101



Dear Mr. Davis:

This is in response to your request for an official opinion
on the question whether hearings to organize Commodity Merchan-
dising Councils authorized by Senate Bill No. 65 of the 75th General
Assembly may be conducted by hearing officers designated by the
Commissioner of Agriculture or whether such hearings must be con-
ducted by the Administrative Hearing Commissioner appointed by the
Governor pursuant to Section 161.252, RSMo Supp. 1967.

Your question arises under the following provision of Section
4 of Senate Bill No. 65:

"Section 4. Every hearing held pursuant to this
act shall be public and a permanent record taken
of all testimony received. The administrative
hearing officer shall conduct the hearing and
the commissioner may make the determination from
the record."

The Commissioner referred to in the foregoing quotation is defined
in Section 1 paragraph 3 of the Act as ". . . the commissioner of
agriculture of the state of Missouri or his delegated representa-
tive;".

The basic rule of construction of a statute is to seek the in-
tention of the legislature as expressed in the statute. *Julian v.*
Mayor, Councilmen, and Citizens of the City of Liberty, 391 S.W.2d
864. The intention of the legislature in this instance is revealed
by the legislative history of the Act.

Mr. Dexter D. Davis

In the original Senate Bill No. 65 as introduced by Senators Tinnin and Ryan, we find that on page 4, section 4, lines 1 through 8 are as follows:

"Section 4. Every hearing held pursuant to this act shall be public and a permanent record taken of all testimony received. The commissioner may designate employees of the department of agriculture or other qualified persons, or both as examiners. The examiners may exercise any power herein conferred on the commissioner. At each hearing the commissioner shall receive evidence with respect to all of the matters and things on which he must make a finding."

In the Senate Journal for Monday, March 10, 1969, we find at the bottom of page 323 the following:

"Senator Spradling offered Senate Amendment No. 2, which was read:

SENATE AMENDMENT NO. 2.

"Amendment Senate Committee Substitute for Senate Bill No. 65, page 4, section 4, lines 1 through 8, by striking all of said lines and inserting in lieu thereof the following:

"'Section 4. Every hearing held pursuant to this act shall be public and a permanent record taken of all testimony received. The Administrative Hearing Officer shall conduct the hearing and the Commissioner may make the determination from the record.'

"Senator Spradling moved that the above amendment be adopted.

"Which motion prevailed."

This amendment was included in the Perfected Senate Committee Substitute for Senate Bill No. 65 and passed with the provision in the form which gave rise to your question.

We must be governed by what the legislature wrote. It is apparent that the legislature did empower the person who occupies the Office of the Administrative Hearing Commissioner pursuant to Section 161.252, RSMo Supp. 1967, to conduct the hearings.

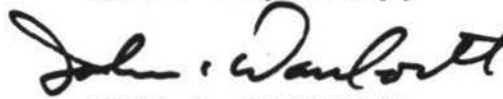
Mr. Dexter D. Davis

CONCLUSION

It is therefore the opinion of this office that hearings to organize Commodity Merchandising Councils authorized by Senate Bill No. 65, 75th General Assembly, shall be conducted by the person holding the office of Administrative Hearing Commissioner who has been appointed by the Governor with the advice and consent of the Senate pursuant to Section 161.252, RSMo Supp. 1967, and that the Commissioner of Agriculture is empowered to make the determination from the record taken of the testimony received at the hearing.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, L. J. Gardner.

Yours very truly,



JOHN C. DANFORTH
Attorney General