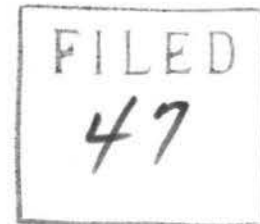


Answer by letter-Klaffenbach

January 21, 1971

OPINION LETTER NO. 47

Honorable Thomas A. Walsh  
State Representative  
District No. 52  
State Capitol Building  
Jefferson City, Missouri 65101



Dear Representative Walsh:

This letter is in response to your opinion request in which you ask concerning the validity of Section 5.160, House Bill No. 5, Third Extraordinary Session, 75th General Assembly, which provides:

"There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period beginning July 1, 1970 and ending June 30, 1971, as follows:

\* \* \*

"Section 5.160. To the Division of Mental Health

"For the Administration of the Division and for the operation of its various schools, hospitals, clinics, centers, institutes, projects and programs

"From General Revenue. . . . . \$71,685,300"

You question whether this appropriation is in violation of Section 21.260, RSMo 1969, which states in part:

"Appropriations for the operation and maintenance of departments shall be separately itemized; and separate appropriations shall be

Honorable Thomas A. Walsh

made for each item of extraordinary operation and maintenance expenditure and for each major capital expenditure. . . ."

Our research into the historical background of the above section which was first enacted in 1933 leads us to the conclusion that, while it is not crystal clear what meaning the legislature intended by the use of the term "departments" the legislature did intend to require at the least an itemization by governmental units no greater than departments. The legislature can, under the broad constitutional grant of legislative powers, provide separate itemization by lesser units such as divisions, subdivisions, boards and agencies.

Section 21.260 does not require separate itemization of operational items except as therein provided with respect to items of extraordinary operation and maintenance and for each major capital expenditure. While it is difficult to say precisely what constitutes extraordinary operation and maintenance expenditure, we conclude that the legislature in making this appropriation acted within the limitations of this provision and therefore presumably no such extraordinary expenditure is involved.

For the above reasons, we conclude that the lump sum appropriation in Section 5.160 of House Bill No. 5, Third Extraordinary Session, 75th General Assembly, does not violate the provisions of Section 21.260.

Yours very truly,

JOHN C. DANFORTH  
Attorney General