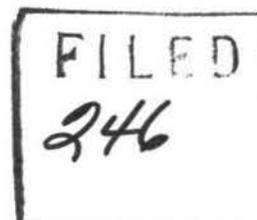


June 26, 1974

OPINION LETTER NO. 246
Answer by letter-Nowotny

Honorable Christopher S. Bond
Governor of Missouri
Executive Suite
State Capitol Building
Jefferson City, Missouri 65101



Dear Governor Bond:

This is in reply to your request for an opinion concerning the question of whether action must be taken concerning "unencumbered appropriation balances" pursuant to Section 1.7(2) of Senate Bill No. 1, First Extraordinary Session, 77th General Assembly, in order to process the necessary paperwork to make payments for expenses incurred prior to July 1, 1974. Your question is predicated upon the example of an employee of an existing agency who incurs travel expenses while on official business of that agency prior to the effective date of transfer of that agency to a new department under state reorganization, but who is unable to submit his expense account until after the effective date of transfer of that agency to a new department.

The appropriate language of Section 1.7(2) of the "Omnibus State Reorganization Act of 1974" (Senate Bill No. 1) provides as follows:

". . . Unencumbered appropriation balances in whole or in part may be transferred on approval of the governor and the state fiscal affairs committee. . . ."

In determining this question and the meaning of this quoted language, it is also important to know when the transfers are going to take place. We are advised that the transfers involved will take place no sooner than June 28 and no later than June 30. We are also advised that the new departments, although coming

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into existence one or two days before July 1, 1974, will not basically need funds until the new fiscal year starts on July 1, 1974. The importance of this, of course, is that the appropriation bills just passed are for the period of July 1, 1974, through June 30, 1975, and are appropriations to the new departments as provided for in state reorganization.

However, the present appropriations are to the presently existing agencies and departments for the period of July 1, 1973, through June 30, 1974. Therefore, if a new department under state reorganization was to come into existence for some considerable length of time prior to July 1, 1974, that new department would then not have any appropriations until July 1, 1974, under which it could operate. The obvious purpose, therefore, of the provision quoted above is to allow the balances that are unencumbered by the old departments and agencies to be transferred to the new departments for their use during this fiscal year of July 1, 1973, through June 30, 1974.

Note, however, that the only thing that is allowed for transfer is "unencumbered balances," which, of course, means those sums for which obligations have not been incurred by the existing agency on those appropriations. In answer to your question, therefore, it is quite apparent that the expenses incurred in your example would constitute obligations on the appropriations of the old agency prior to the date of transfer. Therefore, those would be moneys that would not be "unencumbered" and therefore could not be transferred.

It would be our view that it would not be necessary to transfer "unencumbered appropriation balances" in order to allow these expenses to be paid. In fact, it would not have any bearing on that question. We add that, unless it is expected that the new departments will incur obligations in the last day or two of June, there would not appear to be any reason to transfer the "unencumbered appropriation balances." The only purpose, as we stated, for this provision was in case the new department came into existence at some appreciable time prior to July 1, 1974.

Having determined the above question, you then ask how the necessary paperwork should be processed. In other words, prior to state reorganization, the existing agency would initiate and sign vouchers to be presented to the Comptroller, but now, those agencies may not exist or if they do will be in a new department, and your question is who should sign the vouchers and present them to the Comptroller. This is a practical question for there appears to be no doubt that the obligations are properly

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incurred and should be paid. It is our view, therefore, that the new department to which an agency is transferred would prepare and sign the vouchers for presentation to the Comptroller after state reorganization has been accomplished. For this purpose, the new department is in effect a caretaker of the business of the old agencies and has been given the authority to carry on the business of the old agencies.

Yours very truly,

JOHN C. DANFORTH
Attorney General