

OFFICERS: A member of the Commission on Atomic Energy,
STATE OFFICERS: who was appointed by former Governor Christopher
CONSTITUTIONAL LAW: S. Bond with the advice and consent of the Senate
to serve at the pleasure of the governor pursuant to § 18.010, RSMo, who has not been removed from office, serves for an indefinite period of time, beyond the expiration of Governor Bond's term, and at the pleasure of Governor Joseph P. Teasdale.

July 2, 1979

OPINION NO. 138

The Honorable Hardin C. Cox
State Senator, District 12
602 West Calhoun
Rock Port, Missouri 64482

Dear Senator Cox:

This opinion is in response to your question asking:

"Does a member of a statutory state agency, who is to serve at the pleasure of the governor, continue to serve after the expiration of the term of the governor making the appointment?"

You also state:

§18.010, RSMo, established a Commission on Atomic Energy to be composed of five members of the senate, five members of the house, and seven members from the community at large. The members from the community at large are to be appointed by the governor, with the advice and consent of the senate, and are to serve at the pleasure of the governor.

"Governor Bond appointed seven such members. They have not resigned, and apparently are available to serve. Governor Teasdale has not made any replacement appointments.

"Are Gov. Bond's appointees still members of the Commission?"

The Honorable Hardin C. Cox

It is our view that the general rule which is to be applied to the situation you present is that, in the absence of provisions which would require a contrary conclusion, the period of holding office by a public officer who is appointed to serve at the pleasure of the appointing authority continues after the expiration of the appointing authority's term subject to removal by the successor to the appointing authority. See State ex rel. Tamminen v. City of Eveleth, 249 N.W. 184 (Minn. 1933), Jennings v. Wilson, 179 Misc. 358, 40 N.Y.S.2d 400 (1942), and cases cited therein.

It is also our view that if it could be argued that such an appointive officer has a term which terminates with the expiration of the term of the authority which appointed him, then § 12 of Art. VII of the Missouri Constitution would apply and such an officer would be entitled to hold office until his successor was duly appointed and qualified.

However, we believe that the answer is quite simply that such an officer serves for an indefinite period beyond the term of the authority appointing him subject to the pleasure of the person holding the office of governor.

CONCLUSION

It is the opinion of this office that a member of the Commission on Atomic Energy, who was appointed by former Governor Christopher S. Bond with the advice and consent of the Senate to serve at the pleasure of the governor pursuant to § 18.010, RSMo, who has not been removed from office, serves for an indefinite period of time, beyond the expiration of Governor Bond's term, and at the pleasure of Governor Joseph P. Teasdale.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John C. Klaffenbach.

Respectfully submitted,



JOHN ASHCROFT
Attorney General