

STATE PLANNING BOARD: Appropriation for board limited
to \$10,000.00 for any biennium.

December 16, 1942



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Mr. William Anderson
Director
Missouri State Planning Board
Jefferson City, Missouri

Dear Sir:

We are in receipt of your request for an opinion,
under date of December 7, 1942, which reads as follows:

"At the meeting of the State Planning Board held on November 16, the matter of appropriations for the State Planning Board for the next biennium was discussed. A remark was made that the provision in Section 15393, page 3899, 1939 Revised Statutes, was not binding. One of the members stated that the Appropriations Committee of the Legislature is not under obligation to follow this since one session cannot bind another session with regard to money. In order to have a definite understanding about this, we would like to have a ruling from your Department concerning this provision."

Section 15393 R. S. Missouri, 1939, reads as follows:

"The state planning board shall be so limited in the number and compensation of employees and assistants that

their salaries, together with the expense provided for herein for members of said board shall not exceed for any biennium the sum of ten thousand (\$10,000.00) dollars."

This section is not a limitation on future legislatures, for the reason that it can be repealed or amended. An act of the legislature should not be declared unconstitutional unless it appears beyond a reasonable doubt that it is in contravention of the Constitution. (Hull v. Baumann, 131 S. W. (2d) 721, 345 Mo. 159).

Under the above section any appropriation in excess of Ten Thousand (\$10,000.00) Dollars for any biennium would not be valid. If an appropriation is made in excess of the Ten Thousand (\$10,000.00) Dollars for the biennium it would not be an amendment of the section for the reason that legislation cannot be included in an appropriation bill. It was so held in the case of State v. Smith, 75 S. W. (2d) 828, 1. c. 830, pars. 4-6, where the court said:

"It cannot be said that the act appropriating \$3,000 from the general revenue fund to the board of barber examiners' fund amounted to an amendment of section 13525, R. S. 1929 (Mo. St. Ann. Sec. 13525, p. 637). It does not attempt to amend that section. Its sole purpose was to appropriate \$3,000 from one fund to another. It reads as follows:

" There is hereby appropriated out of the state treasury, chargeable to the general revenue fund, the sum of three thousand (\$3,000.00) dollars to the Board of Barber Examiners Fund.' (Laws 1933-34, p. 12, sec. 12B.)

"Besides, legislation of a general character cannot be included in an appropriation bill. If this appropriation bill had attempted to amend section 13525, it would have been void in that it would have violated section 28 of article 4 of the Constitution which provides that no bill shall contain more than one subject which shall be clearly expressed in its title. There is no doubt but what the amendment of a general statute such as section 13525, and the mere appropriation of money are two entirely different and separate subjects. State ex rel. Hueller v. Thompson, State Auditor, 316 Mo. 272, 289 S. W. 338."

The proper procedure for the appropriation of a larger amount than Ten Thousand (\$10,000.00) Dollars for the biennium would be to either amend Section 15393, supra, or repeal the whole section.

CONCLUSION

It is, therefore, the opinion of this department that Section 15393 R. S. Missouri, 1939, is binding, and the legislature is not authorized to appropriate a larger amount than Ten Thousand (\$10,000.00) Dollars for the biennium, as set out in said section.

Respectfully submitted

APPROVED:

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