

UNEMPLOYMENT COMPENSATION COMMISSION -- Where can headquarters be
legally located?

May 13, 1938.

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Honorable Julian H. Bagby
Mayor of Sedalia
Sedalia, Missouri

Dear Sir:

We acknowledge your request for an opinion dated
May 9, 1938, which request reads as follows:

"I am writing you this letter as Mayor
of the City of Sedalia first to advise
you, if you have not already learned
so, that Sedalia has made a written
proposal and bid for the removal and
housing of the Unemployment Compensation
Commission of Missouri, which is com-
pelled to find new quarters immediately
according to our understanding of the
situation.

"We are, and intend to continue to make
a strenuous effort to locate this Com-
mission in Sedalia and naturally there
are certain questions which arise that
must be answered; one of which has come
to our mind and which we desire your
opinion on, as follows, to-wit: Is
there any legal reason why; or any legal
existing obstacle in the Laws of the
State of Missouri that would prevent
the removal or location of the office
of the Unemployment Compensation Com-
mission of Missouri in Sedalia, Pettis
County, Missouri, and outside of and
away from Jefferson City, Cole County,
Missouri?

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"Your immediate attention and answer to this letter will be highly appreciated as it is our intention to further contact proper parties and authorities to present our case, and we feel confident that this probably may be one of the questions, asked, and we desire to be in a position to speak thereon with authority from your office."

The Unemployment Compensation Act of Missouri, found in Laws Mo. 1937, page 574, and the supporting appropriation act of Missouri, found in Laws Mo. 1937, page 104, are silent as to any statutory location and situs of the administration headquarters of said Commission.

In the case of *Bush vs. State Highway Commission*, 46 S. W. (2d) 854, l.c. 858; 329 Mo. 843, it was held that the Missouri State Highway Commission is a subordinate branch of the executive department of this State, and the court said:

"Created by legislative enactment, and clothed with powers therein defined, through the appointment of the Governor, under all recognized rules of construction it is, when properly classified, a subordinate branch of the executive department."

By the same logic, it is reasonable for us to conclude that the Missouri Compensation Commission is a subordinate branch of the executive department, and subject to any general constitutional provisions and statutes regulating subordinate branches of the executive department.

Article V, Section 1 of the Missouri Constitution provides:

"The executive department shall consist of a Governor, Lieutenant-Governor, Secretary of State, State Auditor, State

Treasurer, Attorney-General and Superintendent of Public Schools, all of whom, except the Lieutenant-Governor, shall reside at the seat of government during their term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law."

In the case of Hannibal and St. Joseph Railway Company vs. State Board of Equalization, 64 Mo. 294, it was held that no legislation is necessary to make the executive department consist of the officers mentioned in the Constitution, supra.

As to the executive officers mentioned in the Constitution, supra, there can be no doubt that they personally must live at the seat of government and keep their public records, books and papers there. Is this constitutional provision to be construed so that subordinate branches of the executive department must find headquarter offices at the seat of government, and must, at all events, keep their public records, book and papers there? We believe that such a construction reads into the Constitution a requirement not apparent in its language, and not reasonably intended. We believe that the language of the Constitution restrains the residence and headquarters, administration offices, records, books and papers at Jefferson City, Missouri only for the executive officers specifically named in the Constitution.

If the constitutional restrictions were intended for subordinate branches of the executive department, the records, books and papers of the Missouri Blind Commission in St. Louis, and the Warehouse Commissioner's records, books and papers in Kansas City, as now located, have had an unconstitutional situs for a long season. Such a construction of this constitutional provision is unreasonable and not practical. We believe the people, by the Constitution, intended the situs of subordinate executive headquarter offices in Missouri to be located at such places as the Legislature has provided, either specifically or by implication.

Article V, Section 4 of the Missouri Constitution provides:

"The supreme executive power shall be vested in a chief magistrate, who shall be styled 'The Governor of the State of Missouri'."

Section 11406, R. S. Mo. 1929 provides:

"Every employe or official of the state of Missouri, who is on a regular salary or per diem, shall have a designated place as headquarters and no such official or employe shall be entitled to, or receive, any compensation or reimbursement for any subsistence expense, (meals or lodging) while at headquarters. Provided, that the heads of all departments in charge of statewide activities shall have headquarters at Jefferson City, unless otherwise provided by general laws, or unless, in the opinion of the governor, or the elective officer appointing the official or employe, the public interest will best be served by having the headquarters at some other place, to be designated by the governor, or the elective officer appointing such official or employe. Provided further, that the state auditor shall not audit any account for the expense of any official or employe for subsistence while at headquarters. Provided, however, that this section shall not apply to the members of boards or commissions whose duties are supervisory and whose services are occasional. Provided further, this section shall not apply to inspectors and examiners whose duties

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are in no respect administrative but wholly that of inspection and examination."

CONCLUSION

This department is of the opinion that the legal situs of the headquarters of the Unemployment Compensation Commission, that is, the place where the records, books and papers of said Commission are to be kept, is now legally located in Jefferson City, Missouri, but we are of the further opinion that, if in the opinion of the Governor of Missouri, the public interest will be best served by locating headquarters at some other place which he shall designate, then the headquarters can be legally changed by him to said situs, upon his order to that effect.

Respectfully submitted

WM. ORR SAWYERS
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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