

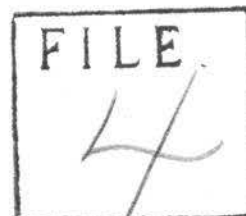
STATE FAIR:
COMMISSIONER OF
AGRICULTURE:

Commissioner of Agriculture may hold essay
or poster contests in schools to carry out
purposes of the State Fair Act.

February 10, 1942

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Mr. Ernest W. Baker
Secretary-Manager
Missouri State Fair
Sedalia, Missouri



Dear Mr. Baker:

This is in reply to your letter of recent date where-
in you request an opinion from this department based upon
the following statement of facts and requests:

"I would appreciate an expression of your opinion
as to whether or not it would be permissible
for the Missouri State Fair to hold an essay
or poster contest in the various schools through-
out the State of Missouri, and offer a cash
prize, probably a defense bond."

The Missouri State Fair is created by statute and the
powers and duties of the officers thereof are derived from these
statutes together with such other powers as may be implied
from the act.

The rule that "that which is implied in a statute is
as much a part of it as that which is expressed", has been ap-
plied in the case of State ex rel O'Connor v. Riedel, 46 S. W.
(2d) 131, 329 Mo. 616; and in State ex rel Bybee v. Hackmann
207 S. W. 64, 276 Mo. 110.

And in the case of Lamar Township v. City of Lamar 261,
Mo. 171, 189, the court announced the rule as it applies to
powers and duties of officers in the following language:

"Officers are creatures of the law, whose duties
are usually fully provided for by statute. In
a way they are agents, but they are never gen-
eral agents, in the sense that they are hampered
by neither custom nor law and in the sense that

they are absolutely free to follow their own volition. Persons dealing with them do so always with full knowledge of the limitations of their agency and of the laws which, prescribing their duties, hedge them about. They are trustees as to the public money which comes to their hands. The rules which govern this trust are the law pursuant to which the money is paid to them and the law by which they in turn pay it out. Manifestly, none of the reasons which operate to render recovery of money voluntarily paid under a mistake of law by a private person, applies to an officer. The law which fixes his duties is his power of attorney; if he neglect to follow it, his cestui que trust ought not to suffer. In fact, public policy requires that all officers be required to perform their duties within the strict limits of their legal authority."

Applying these rules here, we refer to the statute creating the State Fair to ascertain what powers have been conferred upon the officials delegated to administer that act.

Section 14154 R.S. Mo., 1939, provides in part as follows:

"For the purpose of encouraging the development of the agricultural, horticultural, mechanical, mineral, stock raising and all other industrial interests of the State of Missouri, there is hereby established a state fair, to be held annually at Sedalia, Missouri, and on the state fair grounds heretofore conveyed by deeds of conveyance to the state of Missouri and hereafter to be acquired by the state of Missouri as hereinafter provided; and said fair shall be under the control and management of the state commissioner of agriculture as hereinafter provided; * * *."

Section 14155 provides in part as follows:

"The commissioner of agriculture, at such time as may be determined upon by him shall hold, annually, a fair upon the state fair grounds above designated; and at these fairs all important products of the state shall be recognized, according to merit, by premiums or rewards, for excellence offered by the commissioner of agriculture, out of a fund provided therefor by the legislature of the state at each biennial session thereof, or from funds that may be otherwise provided; but all parties receiving awards for excellence or merit shall not collect the same, nor is it collectible until he furnishes to the commissioner of agriculture to his satisfaction, a complete history of how the exhibit was produced, and all other information concerning the entry that would be of interest or benefit to the general public;* * *"

Section 14159 provides in part as follows:

"The commissioner of agriculture shall have power to make all rules, regulations and by-laws necessary and suitable for the conduct and government of the exhibitions, the sale of privileges, and for the proper control, operation and conduct of the fair not inconsistent with the purposes of this article, nor with the Constitution and laws of this state.* * *"

Said section 14155 permits the commissioner of agriculture in the administration of this act to recognize according to merit by premiums or rewards all important products of this state. It is of general knowledge that the construction placed on this clause by those who have heretofore administered this act construed the term "important products of the state" to include educational exhibits as well as other Missouri products.

Referring to your request, we think an essay or poster contest on subjects which would be in relation to Missouri

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products would be in keeping with the spirit and purpose of the act, providing the contestants are required to comply with the provision of said section 14155 in respect to furnishing the commissioner of agriculture, to his satisfaction, a complete history of how the exhibit was produced and all other information concerning the entry that would be of interest or benefit to the general public.

The commissioner, by section 14159, has the authority to make the necessary rules and regulations for the carrying on of each contest and to fix the prize or award to be given to the winner, which prize or award should be awarded at the State Fair when other exhibits are placed on exhibition.

CONCLUSION.

From the foregoing, it is the opinion of this department that the commissioner of agriculture in recognizing according to merit the educational products of this state, may hold essay or poster contests in the schools of this state, and offer such premiums or awards for the excellence of the exhibit as he may deem proper, providing such exhibit is offered and award is made at and during the State Fair period.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
Attorney-General

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