

AVIATION: Division of Resources and Development not authorized under Sections 15393.1 to 15393.14, Mo. R.S.A., to represent the State in feeder airline application hearings.

August 1, 1947

FILED

8/6
22

Mr. Hugh Denney, Director
Division of Resources and Development
Department of Business and Administration
Jefferson City, Missouri

Dear Mr. Denney:

This is in reply to your letter of July 14, 1947, requesting an opinion from this department, which reads as follows:

"For several months the Civil Aeronautics Board in Washington has been considering feeder airline applications to operate in or through Missouri. A few months ago our Commission instructed the staff to participate in hearings on the Upper Mississippi feeder airlines case, which we did at the sufferance of the CAB counsel.

"As additional feeder airline application hearings are held, it is apparent that the State of Missouri should participate in seeing that certificates are granted for serving communities in such a manner as to benefit the growth and development of feeder airlines in the State. There are numerous applicants desiring to serve Missouri and, as an agency, we have no interest in what particular applicant receives the Certificate of Convenience and Necessity.

"We are concerned, however, that, for example, a feeder airline operating between St. Louis and Keokuk, Iowa, which stops at Louisiana and Hannibal, should not make a dog-track side trip to Kirksville and back to Keokuk. We believe that in such an instance Kirksville

should be serviced by some other feeder line operating in a more direct method to save both time and distance.

"The question now in our minds is whether or not, under House Bill 502, 62nd General Assembly, we have adequate legal authority to represent Missouri in feeder airline application hearings. We are quite sure the State should be represented, but we desire to determine legality of our intervention."

The Division of Resources and Development was created for the general purpose of advancing the economic welfare of the people through programs and activities to develop the State's natural resources and industrial opportunities pertaining to commerce, agriculture, mining, forestry, transportation, recreation and aviation (Section 15393.1, Mo. R.S.A.). It is made the duty of the Division, among other things, to investigate and assemble information regarding the economic resources and industrial opportunities of the State, and to formulate plans for the development, conservation and use of these resources; acquaint the people of Missouri with the industries and industrial opportunities and encourage closer cooperation between the industries of the State and with the people by the use of educational and advertising mediums; to encourage the development of recreational areas of the state, and to encourage the public to visit Missouri by the dissemination of information as to the recreational resources and advantages of the State.

The claim of authority of the Division to represent Missouri before the Civil Aeronautics Board in hearings, for the purpose of determining whether feeder airlines should be granted certificates of public convenience and necessity by that board, is evidently based upon Section 15393.7, subsection (g), Mo. R.S.A., which provides that said Division shall "encourage the development of the aeronautical resources of the state and aid in an educational program related to aviation."

The above provision standing alone, brief as it is, does not afford a basis for a conclusive determination of the question at hand. In order to determine whether said provision is sufficient authority upon which the Division can rely in said activity, said provision must be considered in the light of all the provisions of Sections 15393.1 and 15393.7, Mo. R.S.A. This familiar canon of

statutory construction is stated in the case of *Norberg v. Montgomery*, (Mo. Sup.) 173 S.W. (2d) 387, where the court said, at l. c. 389:

"The several parts, or sections, of such a statute are to be construed in connection with every other part, or section, and all are to be considered as parts of a connected whole, and harmonized, if possible, so as to aid in giving effect to the intention of the lawmakers." *State ex rel. Dean et al. v. Daues et al.*, 321 Mo. 1126, 14 S.W. 2d 990, loc. cit. 1001, 1002. See, also, *Holder v. Elms Hotel Co.*, 338 Mo. 857, 92 S.W. 2d 620, 104 A.L.R. 339; *State ex rel. Kansas City Power & Light Co. v. Smith*, 342 Mo. 75, 111 S.W. 2d 513; *State v. Wipke*, 345 Mo. 283, 133 S.W. 2d 354; *State ex rel. McKittrick v. Carolene Products Co.*, 346 Mo. 1049, 144 S.W. 2d 153."

The intention of the General Assembly must be taken from the context of all the provisions relating to the scope of authority of the provision. Said provisions clearly show that the purposes and objectives of the Division are to be accomplished by advertising and the dissemination of pertinent data and information concerning the various enumerated fields. Section 15393.7, subsection (g), must be read and construed in connection with these provisions. Therefore, it reasonably appears, from a fair interpretation of these provisions, that the authority granted by that part of Section 15393.7, subsection (g), which reads, "encourage the development of the aeronautical resources of the state," is such as will authorize the Division to inform the public of the aeronautical resources of the state, thereby encouraging their development. In other words, we submit that the General Assembly authorized a general public relations program designed to present to the public the advantages of aviation; to encourage the use of aeronautical facilities in Missouri, and to promote the aviation industry in this manner.

Therefore, it follows that the Division is not authorized to engage in the proposed activity. This conclusion is consistent with the ruling in an opinion rendered to your Division under date of June 5, 1947, wherein it was held that the educational program referred to in the last part of Section 15393.7, subsection (g), was intended to be a general public relations program designed to educate the public in aviation by advertising and the dissemination of pertinent data and information.

Mr. Hugh Denney

(4)

It is significant to note that the General Assembly has not taken steps to regulate or license feeder airlines or to extend the authority of the Public Service Commission to include public air carriers. In the absence of such authorization we may presume that the General Assembly did not intend an agency of this State to assert authority in the manner proposed. In view of the above, if the representatives of the Division were to take part in the proposed activity it is difficult to see the value of such participation.

CONCLUSION

Therefore, it is the opinion of this department that Sections 15393.1 to 15393.14, Mo. R.S.A., do not authorize the Division of Resources and Development of the Department of Business and Administration, to represent the State before the Civil Aeronautics Board in feeder airline application hearings.

Respectfully submitted,

DAVID DONNELLY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

DB:CP