

STATE BOARD OF HEALTH:) Sec. 71, Laws of Mo., 1943, p. 256, gives
MERIT SYSTEM:) authority to State Board of Health to establish
and operate under a merit system of personnel
administration.

June 13, 1944



Dr. James Stewart
State Health Commissioner
Jefferson City, Missouri

Dear Sir:

The Attorney General acknowledges receipt of your letter of June 6, 1944, requesting the opinion of this department, which letter reads as follows:

"In order to comply with the Act of Congress and with the regulations of the U. S. Public Health Service pertaining to matching the funds, this Board is now contemplating the setting up and putting into operation a Merit System of Personnel Administration.

"We therefore, would like an opinion from your office regarding the following question.

"Does this Board have the authority to establish and operate under a Merit System of Personnel Administration in order to comply with the above mentioned Act of Congress and Federal regulations, the cost to be borne by Federal Funds?

"We would appreciate very much receiving this opinion as quickly as possible in order to meet the requirements and to obtain Federal allotments which are available to Missouri."

Title V, Part 1, Section 501, Social Security Act, as amended, reads as follows:

"For the purpose of enabling each State to extend and improve, as far as practicable under the conditions in such State, Services for promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$5,820,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services."

Title V, Part 1, Section 503, Social Security Act, as amended, reads:

"(a) A State plan for maternal and child-health services must (1) provide for financial participation by the State; (2) provide for the administration of the plan by the State health agency or the supervision of the administration of the plan by the State health agency; (3) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan; * * * * *

Section 10.407 of the Rules and Regulations of the United States Public Health Service, governing allotments and payments to the states for venereal disease control activities, as amended August 30, 1943, reads as follows:

"When Federal funds paid hereunder are utilized for the training of venereal disease control personnel, each State shall conform to 'Training Policies of the United States Public Health Service' as amended to July 1, 1943. Each State shall establish and maintain (1) acceptable administrative and fiscal procedures; and (2) a system of personnel administration on a merit basis in accordance with 'Merit System Policies of the United States Public Health Service' as amended to May 15, 1942."

Title 6 of the Social Security Act sets forth the Merit System Policies of the United States Public Health Service and contains provisions relative to establishment of merit system of personnel management in State and local health departments. Under these regulations the Public Health Service reviews merit system plans developed by the States and territories in order to determine whether such plans are in conformity with accepted standards of personnel administration.

Section 71, Laws of Missouri, 1943, page 256, reads as follows:

"In order to secure to the State Federal Funds allotted or available, the State Board of Health, the State Auditor and the State Treasurer, respectively, are hereby authorized and directed to receive, deposit, expend and dispense any allotments, advancements, grants, or contributions of federal funds as United States Public Health Service Title VI funds, Venereal Disease Control Funds, Children's Bureau Title V, Part 1, funds or any other federal health funds, for health purposes, and to comply with the provision of any act of Congress, or with any rule, regulation or condition of any agency of the

United States acting under the provisions of federal law providing for the allotment and expenditure of such funds; and should any such act, rule, regulation or condition require the deposit of any such funds in the State Treasury or in a trust fund or with such State Board of Health, Auditor or Treasurer, as trustee, then the said Board, Auditor and Treasurer are hereby authorized and directed to receive, deposit and expend such funds in the manner required by such act, rule, regulation or condition and all such funds so deposited shall stand and are hereby appropriated to said Board, Auditor and Treasurer to be applied in the manner and for the purpose set forth in such act, rule, regulation or condition. When required by such act, rule, regulation or condition, the State Auditor is hereby authorized and directed to audit and issue warrants for, the State Treasurer is hereby authorized and directed to receive, deposit and handle, as trustee or otherwise, any such funds and to pay out same, all in the manner required by such act, rule, regulation or condition; and for such purposes there is hereby appropriated out of any such federal funds so deposited in the State Treasury the sum of Four Million Dollars (\$4,000,000.00) for the years 1943 and 1944, or so much thereof as may be available and necessary for such purposes, the amount hereby appropriated being in addition to all other appropriations made by this act."

This section provides for the establishment by the State Board of Health of a merit system of personnel and this authority is given by the plain words of the statute. There is no ambiguity nor the need of any construction being placed on this statute, since its meaning and purpose is perfectly clear.

Conclusion

It is the opinion of this department that Section 71, Laws of Missouri, 1943, page 256, gives authority to the State

Dr. James Stewart

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June 13, 1944

Board of Health to establish and operate under a merit system of personnel administration.

Respectfully submitted,

RALPH C. LASHLY
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

RCL:EG