

OFFICIAL BONDS - Payment of premium may only be made where
authorized by statute and by appropriation act.

June 18, 1935

6-19



Honorable Forrest Smith
State Auditor
Jefferson City, Missouri

Dear Sir:

This department is in receipt of your letter of May 8, 1935 requesting an opinion as to the following state of facts:

"I would like to be advised by your office as to my rights in paying premiums on official bonds.

"It has been the custom of the state for years to pay the premium on bonds where a bond is required to be given in the performance of the duties relative to the state. Some of the appropriations provide for the payment of bonds, some of the statutes creating the office provide that the various officials must give a bond, and I am unable to determine what bonds I can legally pay and those I can not legally pay."

It will be impossible for this office in this opinion to cover every specific bond required by the statutes of the State of Missouri and to pass upon the appropriation acts of each department wherein official bonds are required. However, the general principles laid down for your guidance may be easily applied to each specific statute.

Article X, Section 19 of the Constitution of the State of Missouri provides:

"No moneys shall ever be paid out of the treasury of this State, or any of the funds under its management, except in pursuance of an appropriation by law; now unless such payment be made, or a warrant shall have issued therefor, within two years after the passage of such appropriation act; and every such law, making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such sum or object. A regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

Section 11421, R. S. Mo. 1929 provides:

"No warrant shall be drawn by the auditor or paid by the treasurer, unless the money has been previously appropriated by law; nor shall the whole amount drawn for or paid, under any one head, ever exceed the amount appropriated by law for that purpose."

In determining whether or not the premium on an official bond may be paid for out of an appropriation made for the department wherein an official bond is required for some officer, depends entirely on two propositions: (1) Does the statute make any provision for the bond, and also make provision for the payment of the premium on the bond by the State? and (2) Does the appropriation act of that department provide for the payment of this premium?

June 18, 1935

In construing the appropriation act with respect to this question, it must be remembered that appropriation acts must specify the purposes for which the appropriation shall be used, and appropriations made for one purpose cannot be used for any other purpose. It must also be remembered that appropriation acts must be strictly construed.

"Another general rule in the construction of statutes, applicable as well to municipal ordinances, is that acts of the character here under review are to be strictly construed. The limitation upon the use of the appropriation in proposition 8 is such, by reason of its terms, that the invoking of the general rule is not necessary."

- Meyers v. Kansas City, 18 S.W. (2d) 900.

CONCLUSION.

In view of the foregoing, it is the opinion of this department that premiums on official bonds may only be paid by the State of Missouri where the statute requiring the bond provides for the payment of the premium by the State of Missouri, and the appropriation act for the department wherein an official bond is required of some official makes provision for the payment of the premium on said bond. In this connection, it must be remembered that in many instances the giving of the bond is a condition precedent to qualifying for the office and, unless otherwise provided by statute, can be viewed in no other light than the personal obligation of the office holder.

Yours very truly,

JOHN W. HOFFMAN, Jr.
Acting Attorney General