

OFFICERS:) State cannot place deposit with airplane
TRAVELING EXPENSES:) company to cover traveling expenses of
state officials and employees.

November 6, 1941

Mr. W. A. Weeks
Public Service Commission
Jefferson City, Missouri



Dear Sir:

This Department is in receipt of your request for an official opinion, which reads as follows:

"The commercial airlines operating within the Continental United States and certain lines operating in the Dominion of Canada, have what they term an 'Air Travel Plan' whereby a company or individual may enter into a contract with the airlines for purchase of air transportation at a 15 percent discount from the one-way fares. Under the plan, the subscriber deposits with the airline \$425.00, thus establishing an account against which transportation sold will be charged. This represents the cost at published one-way fares of \$500.00 in air transportation less 15 percent. Each subscriber is furnished with an 'Air Travel Card' for use by such persons as may be designated by the subscriber.

"The Federal Government can not make the initial deposit of \$425.00 required under the plan as a subscriber. The airlines have extended this discount to Federal Government employees traveling on official business without such

deposit. So far as I know, the airlines do not extend this 15 percent discount to others without the deposit.

"It appears that many states may be prohibited by statute from depositing \$425.00 in this manner to secure the 15 percent discount in fares.

"At the 1941 Convention of the National Association of Railroad and Utility Commissioners, the president of that association was authorized to name a committee to investigate this matter with the view of having the airlines extend this discount to the states without the necessity of making the deposit.

"Will you please make an investigation and advise me as quickly as possible whether or not the laws of our state will permit, without special action of the legislature, the deposit of \$425.00 with the airlines for the purpose of securing this discount."

Section 13027, R. S. Mo. 1939, provides in part as follows:

"Whenever any official, employee or any other person shall travel at the public expense of the state and is paid or reimbursed from any public funds derived from taxes, fees, licenses, or in any other manner prescribed by law, the provisions herein set forth shall govern and no other.

* * * * *

"(c) Before any payment or reimbursement is made to any person on account of any traveling expenses, the original written

authority provided herein shall be filed with the state auditor. All claims for reimbursement shall be submitted to the state auditor upon a form approved by him, which form shall contain the information herein provided. It shall be made out in duplicate and the original shall be sworn to by the person claiming payment or reimbursement, and the original shall remain in the files of the state auditor and the duplicate shall be retained in the files of the department granting the authority. The form shall contain the following information and in addition such other information as the state auditor, may deem necessary and shall be uniform for all departments: Date and place expense was incurred. If account is for more than one day, it shall be itemized showing the amount of each day's expense and the purpose for which each day's expense was incurred. Transportation charge, sleeping-car fare, lodging and meals shall each be shown as separate items and the amount for each stated. If any item of expense exceeds one dollar (\$1.00), it shall be supported by a sub-voucher or receipt signed by the person to whom payment was made by the official, employee or person traveling at the public expense as herein provided and such sub-voucher or receipt shall show in detail the information required by this section. Also the place and date. No official, employee or person traveling at the public expense shall submit any voucher or claim for partial payment or reimbursement on account of traveling expenses but such a voucher or claim must contain all and every expense incurred within the time it purports to cover. The oath or affirmation of the official, employee or person traveling at the public expense shall be in the following form:

"I, _____, do solemnly swear, 'or affirm' the above claim is correct and just, that no part of the same has been paid, that the expense was necessary to the public business of the state, that payment was made out of personal funds and that I have not been reimbursed therefor, and I have not received and will not receive from any source whatever any payment of any part thereof except as provided by law."

The primary rule of statutory construction is to ascertain and give effect to the lawmakers' intent and this should be done from the words used, considering the language honestly and faithfully. *City of St. Louis v. Senter Commission Co.*, 85 S. E. (2d) 21, 337 Mo. 238; *Dennis v. Wrought Iron Range Co.*, 89 S. W. (2d) 127.

We believe from a reading of the above statute that before the state may pay for any transportation expense of a public official or employee that said official or employee must first have paid the same from his personal funds and then have submitted a claim to the state for reimbursement. Section 13027, supra, provides that "all claims for reimbursement shall be submitted to the state auditor" and that the claim must contain "all and every expense incurred within the time it purports to cover." It will further be noted that the oath or affirmation attached to the claim provides that the person has made payment out of personal funds. Therefore, we are of the opinion that any deposit by the state of money for transportation expenses which have not yet accrued, is illegal and contrary to Section 13027, supra.

Conclusion

It is, therefore, the opinion of this Department that a deposit may not be made with an airplane company to pay for transportation of state officials and employees in

Mr. W. A. Weeks

-5-

Nov. 6, 1941

the future, because under Section 13027, R. S. No. 1939, transportation expenses must be paid by the state official or employee from his personal funds and he shall then be reimbursed from the state funds.

Respectfully submitted,

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APPROVED:

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