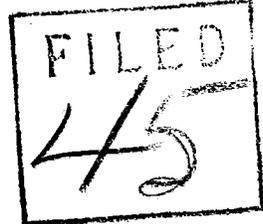


*
APPROPRIATIONS Repair of operative equipment can not be
IN ELEEMOSYNARY paid out of appropriation for operation.
INSTITUTIONS:

February 28, 1941

Honorable W. Ed Jameson
President
Board of Managers
Eleemosynary Institutions of Missouri
Jefferson City, Missouri

3-11



Dear Mr. Jameson:

This Department has received your request for an official opinion which reads as follows:

"During the month of December, 1940, a breakdown occurred in the pasteurizing plant at State Hospital No. 1, Fulton, and at about the same time the old pump in our deep well, which furnished the water for the institution, became worn out and completely unuseable, making it absolutely necessary that this material be replaced.

"Under the appropriation made by the 60th General Assembly there was appropriated out of General Revenue under 'D-Operations' for general expenditures, material and supplies the sum of \$399,481.80, out of which there remains at this time an unexpended balance.

"Our Board seeks your opinion as to the authority of the State Auditor to approve this expenditure and expenditures of similar nature in other eleemosynary institutions where there is an unexpended balance in 'D-operations' at these institutions."

The appropriation for State Hospital No. 1 for the years 1939-1940 is found in Laws of Missouri, 1939, page 20, and is as follows:

"For Hospital No. 1 --

"Payable out of General Revenue fund, as follows:

A. Personal Service:

"The salaries of the superintendent, assistant physicians, dentist, steward, and other employees \$250,000.00

C. Repairs and Replacements:

"Labor, material and supplies for repairing buildings, building equipment, operative equipment and structures other than buildings 20,000.00

D. Operation:

"General expense, material and supplies.399,481.80
Purchase of equipment for criminal insane building 24,888.65

TOTAL out of General Revenue fund . \$ 694,370.45

"For Hospital No. 1 --

"Payable out of Hospital No. 1 fund, as follows:

A. Personal Service:

"The salaries of the superintendent, assistant physicians, dentist, steward, and other employees \$351,359.92

B. Additions:

"Building equipment, operative equipment, labor and materials for construction and installation thereof 1,250.00

"C. Repairs and Replacements:

"Labor, material and supplies for repairing buildings, building equipment, operative equipment and structures other than buildings . . 6,555.00

"D. Operation:

"General expense, material and supplies352,853.28

TOTAL out of Hospital No. 1 fund \$712,018.20 "

The question asked in your opinion is whether the repair or replacement of the pasteurizing plant and the well pump at State Hospital No. 1 can be paid out of Section D relating to "Operation." It will be noted that Section C of the appropriation is explicitly for repairing operative equipment.

It is a well-settled rule that "an appropriation law is to be construed under and by the same rules as other legislation." 59 C. J. 262. See State ex rel. McKinley Publishing Co. v. Hackmann, 282 S. W. 1007, 314 Mo. 33.

It is equally well settled that a special statute dealing with a subject in a definite way takes precedence over a general statute dealing with the subject in general terms. Collins v. Twellman, 126 S. W. (2d) 231, 344 Mo. 330; State ex rel. Sav. & Bldg. Ass'n. v. Brown, 68 S. W. (2d) 55, 234 Mo. 781, Tevins v. Foley, 30 S. W. (2d) 68, 325 Mo. 1050.

While it is true that if Section D stood alone without Section C, then such section would be broad enough

under the term "Operation" to include repair or replacement work on operative equipment. (See State Bd. of Health v. Frohmler, 29 P. (2d) 941, in which the appropriation for operation was held to include traveling expenses and postage). However, when the Legislature has specifically, and by a special section, provided a fund for the repairing or replacement of operative equipment, then that section takes precedence and the general section on operation does not apply.

CONCLUSION

It is, therefore, the opinion of this Department that the repair or replacement work on the pasteurizing plant and the well pump at State Hospital No. 1 cannot be paid out of the appropriation for "Operation" found in the Appropriation Act for State Hospital No. 1, Laws of Missouri, 1939, page 20.

Respectfully submitted,

ARTHUR O'KEEFE
Assistant Attorney-General

APPROVED:

COVELL R. HEWITT
(Acting) Attorney General

AO'K:EG