

APPROPRIATIONS: House Bills 408 and 657: Consistent concurrent appropriations are not prohibited; Department of Resources and Development has charge of State Museum or Missouri Resources Museum.

February 3, 1944



Hon. D. Howard Doane, Chairman  
State Department of Resources and Development  
State Office Building  
Jefferson City, Missouri

Dear Sir:

Recently you requested the opinion of this department upon the following:

"The State Department of Resources and Development created by the 62nd General Assembly (Laws of 1943, page 978) respectfully requests your opinion upon the following:

"The General Assembly appropriated certain funds to the Missouri Resources Museum (Section 50, Laws of 1943, page 160) and also appropriated certain funds for such museum by another act, namely Section 53, Laws of 1943, page 293. Apparently this department now has charge of the State Museum (Laws of 1943, pages 983, 984).

"It will be necessary for some of the employees of the department to spend a part of their time on museum matters and this department desires to know if such employees may be paid for such time as they spend on museum matters, out of the funds set up in such Section 50, Laws of 1943, pages 160, 161, and after such funds are exhausted, may the such employees be paid from the funds as provided in Section 53, Laws of 1943, page 293.

"This department also desires your opinion as to paying the proportional part of the expense of the members of the department and their office personnel that is brought about in administering the affairs of the museum, from said Section 50, and if the funds there provided are exhausted, may the balance of such expense remaining unpaid be satisfied out of said Section 53. The department further desires to know if, in your opinion, the Missouri State Museum is now under the direction and control of this department."

The last portion of your request, namely, does the Missouri State Department of Resources and Development now have the direction and control of the Missouri State Museum, will be considered first.

House Bill 502, Laws of 1943, page 983, specifically repealed Sections 15441, 15442 and 15443, R. S. Mo. 1939, and enacted new provisions in lieu thereof. Prior to the passage of House Bill 502, the "Missouri state museum," which included the "Missouri soldiers' and sailors' memorial hall" and the "conservational and historical museum" (Section 15442, R. S. Mo. 1939), was under the management and control of the board of permanent seat of government (Section 15441, R. S. Mo. 1939). Section 10b of House Bill 502, Laws of 1943, page 983, is as follows:

"All of the powers and duties heretofore vested in the Board of Permanent Seat of Government relating to the Missouri State Museum, including the 'Missouri Resources Museum', are hereby vested in and shall be exercised by the State Commission of Resources and Development. There shall continue to be maintained by the commission a Missouri State Museum, which shall be a conservational and historical museum in which shall be collected and displayed such exhibits of the products of the mines, mills, fields and forests of the State of Missouri

and such other articles and products as will display the natural resources of the State of Missouri and their utilization, as the commission may deem necessary and expedient. The commission shall appoint a director of the State Museum, who shall have such duties and responsibilities as the commission may direct. It shall be the duty of the commission to design and install necessary cases, racks, tables and other equipment desirable to the purposes of said exhibits. The Commission of the Permanent Seat of Government shall designate such part of the first and second floor of the Capitol Building as it thinks advisable to be used as a part of the Missouri State Museum and shall also designate a wing or section of such space to be known as the 'Missouri Soldiers' and Sailors' Memorial Hall'. To carry out effectively the purpose of this act, the Commission of Resources and Development shall coordinate its activities relating to the Missouri State Museum with those of the Permanent Seat of Government in the use and utilization of the corridors, halls, walls, and other space within the State Capitol Building as may be necessary for the display and exhibits of the Missouri Resources Museum and the Missouri Soldiers' and Sailors' Memorial Hall. In this connection, it shall be the duty of the commission to receive from the Adjutant-General all matters and records pertaining to Missouri soldiers, sailors and marines serving in all wars declared by the United States, including such inscriptions and tablets as may be desirable and available."

The above section divests the Board of Permanent Seat of Government of the management and control of the Missouri State Museum, including the "Missouri Resources Museum" and its component parts, and vests that management and control in the State Commission of Resources and Development.

House Bill 408 was passed July 1, 1943, and approved July 19, 1943. Section 50 of such Act (Laws of 1943, page 160) provides:

"There is hereby appropriated out of the State Treasury chargeable to the General Revenue fund, the sum of Eighteen Thousand Five Hundred Dollars (\$18,500.00) for the use of the Missouri Resources Museum for the years 1943 and 1944, as follows:

"A. Personal Service:

Salaries of curator, specialist and chief stenographer, chief clerk and bookkeeper, installer and other necessary employees ..... \$15,000.00

"B. & C. Additions, Repairs and Replacements:

Original purchase of educational equipment (Books, magazines, book-cases) office furniture and equipment and other miscellaneous equipment, labor, material and supplies for repairing office furniture and miscellaneous equipment..... 1,000.00

"D. Operations:

Supplies, postage, express, travel, and other communications, printing information ..... 2,500.00

"Total for Missouri Resources Museum .....\$18,500.00"

House Bill 657 was passed July 12, 1943, and approved July 30, 1943. Section 53 thereof (Laws of 1943, page 293) is as follows:

"There is hereby appropriated out of the State Treasury, chargeable to the General Revenue Fund, the sum of Twenty-four Thousand Dollars (\$24,000.00) for the use of the State Department of Resources and Development, created by House Bill No. 502 enacted by the 62nd General Assembly, for the years 1943 and 1944, as follows:

"A. Personal Service:

Salaries, wages, and per diem of directors, clerks, stenographers, and all other necessary employees of which amount \$9,375.00 shall be used for carrying on the work of the Missouri Resources Museum from October 1, 1943, to December 31, 1944 .....\$17,500.00

"B. Additions, Repairs and Replacements:

Original purchase of educational equipment (Books, magazines, bookcases) office furniture and equipment and other miscellaneous equipment, labor, material and supplies for repairing office furniture and miscellaneous equipment of which amount \$625.00 shall be used for carrying on the work of the Missouri Resources Museum from October 1, 1943 to December 31, 1944..... 1,000.00

"D. Operation:

General expenses; materials and supplies, communications, postage and express, printing and binding, transportation of things, travel within and without the State, and other general expenses including stationery and office supplies of which amount \$1,575.00

shall be used for carrying on  
the work of the Missouri Re-  
sources Museum from October 1,  
1943 to December 31, 1944.... 5,500.00

"Total .....\$24,000.00"

While Section 43 of Article IV of the Constitution prohibits money from being drawn from the State Treasury except in pursuance of regular appropriations made by law, there is no constitutional barrier against consistent, concurrent appropriation acts for the same purpose. Several instances may be found where the General Assembly has passed two appropriation acts in the same session for the same purpose.

In the present instance two appropriation acts were passed covering a portion of the same period of time and in some respects for the same purpose. House Bill 408 appropriated certain sums to the Missouri Resources Museum, \$15,000.00 of which is for "salaries of curator, specialist and chief stenographer, chief clerk," etc., "and other necessary employees." House Bill 657 allotted to the State Department of Resources and Development \$17,500.00 for salaries, wages, and per diem of directors, clerks, stenographers "and all other necessary employees of which amount \$9,375.00 shall be used for carrying on the work of the Missouri Resources Museum from October 1, 1943, to December 31, 1944." There is no appropriation to the Missouri State Museum for the present biennium. In 1939 (Laws of 1939, page 56) and in 1941 (Laws of 1941, pages 50, 152) the appropriations were to "Missouri Resources Museum," as in the present biennium. Then, also, no appropriations were made to the Missouri State Museum.

Section 10b of the 1943 Act (Laws of 1943, page 983) vests the former power of the Board of Permanent Seat of Government "relating to the Missouri State Museum, including the Missouri Resources Museum" in the State Commission of Resources and Development. Section 15441, R. S. No. 1939, placed the "Missouri resources museum," the "Missouri soldiers' and sailors' memorial hall," and the "conservational and historical museum" under the domain of the Board of Permanent Seat of Government.

It is a primary rule of statutory construction that the intent of the General Assembly should be determined and given effect. A collection of the Missouri decisions announcing this doctrine may be found in Vol. 29 of West's Missouri Digest, Key No. 181. The above rule has been applied to appropriation acts. *State v. Weatherby*, 129 S. W. (2d) 887, 344 Mo. 1. c. 854.

Apparently the Legislature has intended the "Missouri Resources Museum" to be a generic term, and "Missouri State Museum" to be a more restricted term, so that "Missouri Resources Museum" includes the "Missouri State Museum" as a part of the generic or general term. It follows that an appropriation to the "Missouri Resources Museum" authorizes the expenditure of the sum set out on the "Missouri Resources Museum," the "State Museum," and the "Missouri Soldiers' and Sailors' Memorial Hall." A different construction would tend to defeat the purpose of the appropriation acts and section 10b of the 1943 law.

The meaning of the language of an enactment should be narrowed or broadened to conform to the legislative intent as gathered from its entirety, history and purpose. *Rust v. Missouri Dental Board*, 155 S. W. (2d) 80, 348 Mo. 616.

The two appropriations authorize the expenditure of funds for stenographers and other necessary employees. If it is necessary for employees of the department to spend a part of their time on museum affairs, the time so spent by such employees may be charged to and paid for out of the funds appropriated for personal services to the Missouri Resources Museum in either House Bill 408 or House Bill 657. Of course, each charge can have only one satisfaction. These bills are not inconsistent or repugnant, and where two acts cover, in whole or in part, the same matter, they should be harmonized, if possible, and effect given to both as though they constituted one act. *State ex inf. Major v. Amick*, 152 S. W. 591, 247 Mo. 271.

However, only House Bill 408 provides funds for the compensation of the curator, while only House Bill 567 provides money for the payment of the "salaries, wages, and per diem of directors, \* \* \*." Section 10b of House Bill 502 authorizes the Department of Resources and Development to appoint a "director of the State Museum," and Section 3 of this Act authorizes the appointment of a "Director of Re-

sources and Development." Obviously, the Director of the State Museum is different from the "Director of Resources and Development." They evidently represent two different positions to be filled by different persons. However, we conclude that the terms "Curator" and "Director" of the Museum are synonymous as used in the appropriation contained in House Bill 408 and Section 10b of House Bill 502, and that the salary of the Museum Director or Curator may be paid out of the proper funds provided for in either House Bill 408 or House Bill 657, but that the salary of the Director or Assistant Director (if there be such) of the Department of Resources and Development may be paid only from the money provided by House Bill 657. The reason for the last conclusion is that the Director and Assistant Director of the Department of Resources and Development cannot be classed as employees of the Museum, but are officials of the Department of Resources and Development; and the purpose for which appropriated funds may be used is strictly construed. *Meyer v. Kansas City*, 18 S. W. (2d) 900, 323 Mo. 1. c. 203.

Inasmuch as the last appropriation act (House Bill 657, Laws of 1943, page 293) authorizes the payment of the expenses, including travel, of the State Department of Resources and Development, while the first act (House Bill 408, Laws of 1943, page 160) relates only to the Museum, the curator and employees, and expenses, it is concluded that the necessary expenses of the Commissioners are chargeable solely to the funds appropriated to the Department of Resources and Development by House Bill 657. However, it should be remembered that the funds mentioned in House Bill 408 are charged with the amounts expended on behalf of the Museum under Senate Committee Substitute for House Bill 10. The amounts expended for the Museum under said House Bill 10 and House Bill 408 cannot exceed the total of the items mentioned in House Bill 408. See Section 57, Laws of 1943, page 164.

#### CONCLUSION

It is, therefore, the opinion of this department (1) that the Department of Resources and Development now has the management and control of the "Missouri State Museum" or the "Missouri Resources Museum" and its component parts; (2) that

if it is necessary for employees of the Department of Resources and Development to spend a part of their time on museum affairs, their time so occupied may be paid for out of the funds appropriated for personal service to the Missouri Resources Museum in either House Bill 408 or House Bill 657, but that each charge can have only one satisfaction; that the salary of the Curator or Director of the Museum may be paid from the money allotted by either of the above appropriation acts, but that the salaries of the Director and Assistant Director of the Department of Resources and Development, and the necessary expenses of the Commissioners of Resources and Development, are payable only from the funds set aside by House Bill 657.

Respectfully submitted

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Assistant Attorney General

APPROVED:

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ROY MCKITTRICK  
Attorney General

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