

METROPOLITAN AREA

PLANNING COMMISSION: Method of procedure in creating obligations and paying expenses.

September 2, 1948



Honorable Bert Cooper, Director
Department of Business & Administration
State Office Building
Jefferson City, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this office, reading as follows:

"Governor Donnelly has, by executive order, assigned the Commission created by the 64th General Assembly under H. B. 423.

"Would you please give me your interpretation of Section 4, page 3, lines 10 to 12 inclusive of H. B. 423, with reference to the following questions:

"1. Is the restriction in the clause constitutional and binding?

"2. If the answer to question one is in the affirmative, would the law be complied with when Illinois appropriates a like amount or a greater amount to that of Missouri and makes it available to the joint commission?

"3. If the answer to question two is in the affirmative would the same plan apply to the expenditure of the Missouri appropriation that now applies to other divisions in the department?

"4. If the Answer to question two is negative could the amount of the Missouri appropriation be expended for items specified in the law in accordance with plans now applying to other divisions and adjustments be made by, and between, the Comptrollers of the two states, Illinois and Missouri, at the end of the fiscal year?

"5. Can the Illinois Commission or the Missouri Commission act independently and

incur financial obligations or must they work jointly for such obligation to be valid?

"6. Would the law expressed in section 4 and laws expressed elsewhere in Missouri statutes be complied with by each state assuming and paying for one half of each financial obligation incurred by the commissions working jointly? i.e.: each bill would be split equally and two requisitions made, one for one half the amount to Missouri and the other half to Illinois?

"7. Will you please suggest one or more plans by which the law specified above may be best complied with under the Missouri Constitution and Missouri Statutes?"

House Bill No. 423 of the 64th General Assembly, referred to in your letter of inquiry, provides for the appointment of a metropolitan area planning commission to cooperate with a similar commission created by the General Assembly of Illinois. Such joint commission has been enjoined with the duty of preparing a comprehensive plan of organization and administration for the planning and development of the area embracing the City of St. Louis, East St. Louis, Illinois, and neighboring counties and municipalities. We are further informed that the 64th General Assembly of the State of Missouri has appropriated the sum of \$25,000.00 for the carrying out of such duties by the Missouri commission, and that a like sum has been appropriated by the General Assembly of the State of Illinois.

In this opinion, we have assigned numbers to the various phases thereof to conform with the numbering accorded in your request.

1.

Lines 10 to 12 of Section 4 of House Bill No. 423 of the 64th General Assembly read as follows:

" * * * but in no event shall the expenditures by the Missouri commission exceed the amount of expenditures by the commission of Illinois."

In the fiscal management of the state, the General Assembly is supreme, barring constitutional prohibitions.

The General Assembly has seen fit to impose the limitation upon the expenditures to be made by the commission to an amount equal to such expenditures made by the Illinois commission. We do not find any constitutional provisions that would serve to invalidate such action by the General Assembly. We, therefore, consider the restriction constitutional and binding upon the Missouri commission.

2.

We note that the General Assembly of Missouri has employed the word "expenditures" in the limiting clause. This word, in its plain and ordinary meaning, refers to disbursements or actual payments or the outlay of money. The word "appropriation" has a distinctly different definition. Reading the entire Section 4 of the act, it is apparent that the General Assembly has specifically limited the outlay to be made by the Missouri commission to the amount similarly expended by the Illinois commission.

We, therefore, consider that the mere appropriation by the General Assembly of the State of Illinois of an amount equal to that appropriated by the General Assembly of the State of Missouri would not be in compliance with this restriction, nor authorize the Missouri commission to spend all of its appropriation.

3.

Question No. 2 having been answered in the negative, no inquiry remains to be answered under paragraph 3.

4.

We presume by this question you wish to be advised as to whether the Missouri commission may make use of plans previously formulated by other divisions of your department, and then if financial adjustments could thereafter be made by the Comptrollers of Illinois and Missouri at the end of the fiscal year.

We do not believe that the Missouri commission, as established under House Bill No. 423, could delegate to some

other state agency the duty of preparing the plans for the preparation of which such commission has been specifically created. In accordance with elementary rules of law, powers vested in the state agency may not be delegated in the absence of specific authorization or through implied necessity. Considering the act creating the Missouri commission in its entirety, the purposes for which created, the power given to the commission to employ necessary administrative and technical services and the appropriation made by the General Assembly to discharge such obligations so incurred, it seems the clear intent to be that the Missouri commission personally, and through its own consulting employees, do and perform the duties enjoined upon such commission.

5.

Section 2 of the act reads as follows:

"The commissioners so appointed, in co-operation with commissioners or representatives lawfully designated by the State of Illinois, shall:

"(a) Prepare a plan of organization and administration whereby the affected communities of the area may most effectively plan and guide the development of the area in matters which are of concern to the area as a whole.

"(b) Submit the plan so prepared to the Sixty-fifth General Assembly."

The quoted provision of the act seems to contemplate that the two state commissions shall jointly prepare the organization and administration plans for the area as a whole; however, we do not find anything in the act that would preclude the Missouri commission, acting independently in assembling the necessary data and making the necessary research, insofar as the duties of such commission affect the metropolitan area located within Missouri. In fact, Section 4 of the act, authorizing the employment of administrative and technical employees, tends to indicate that the Missouri commission may act independently in this regard. All obligations incurred, however, are subject to the restriction referred to in No. 1, supra.

Hon. Bert Cooper

-5-

6.

We believe that the method outlined in paragraph 6 of your inquiry is the proper one to pursue in the incurring of obligations and their payment. It would be a strict compliance with the limitation upon the Missouri commission that its expenditures should not exceed those of the commission created by the General Assembly of the State of Illinois.

7.

We believe this paragraph of your inquiry to be answered by No. 6, supra.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
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