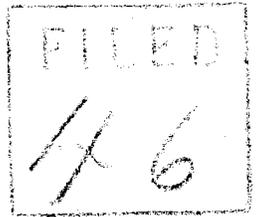


APPROPRIATE : Compensation of member of the Public Hearing Panel, under House Bill No. 180, should be paid out of the appropriation of the State Board of Mediation.

January 2, 1948



Honorable Vance Julian, Chairman
State Board of Mediation
State Office Building
Jefferson City, Missouri

Dear Mr. Julian:

This is in reply to your request for an opinion, reading as follows:

"The state Board of Mediation, which operates under house bill No. 180, effective September 10, 1947, has requested an official opinion from the Attorney General to the following question:

"Can the State Board of Mediation lawfully compel the utility and the employees to pay the cost of the public hearing panel members, where compulsory arbitration has been ordered by the Board, as set out in Section 14, 15, 16, 17 and 18 of the Act?

"I wish to call your attention to the appropriation for the State Board of Mediation, Section 9.330, page 177 which includes the following language: '... and other necessary expenses of the State Board of Mediation, including the per diem and necessary expenses of especially appointed panel members as provided by law.' I do not find in the Act the directive that we should pay the special panel members per diem and expenses; therefore, before doing so, would like to have the opinion of your department as to our authority to pay the special panel members out of state funds, or whether

we should require the particular utility and union to stand the cost of the special panel of arbitration."

Under the terms of House Bill No. 180 the State Board of Mediation has been given the duty to attempt to peaceably settle disputes between employees and public utilities in furtherance of the declared public policy of the state to protect the interests of the people in these vital matters. In the event that the issues cannot be determined between the parties to the disputes, it is the duty of the State Board of Mediation, in the event that either the utility or the employees do not designate members of a Public Hearing Panel to arbitrate the issues, to make such designations for the disputants.

Inasmuch as there is no specific mention in the act that the state should bear the expenses of the Public Hearing Panel, we must look to see if the authority to pay may be reached by implication. In the case of *State v. Hackmann*, 217 S.E. 271, the Board of Equalization had hired an employee to help the Board carry out its duties, and the Court, in passing on the right of the employee to compensation, had this to say about the power of the Board of Equalization to hire employees, i.c. 273:

" * * * The general power granted by the statute, by a familiar rule of construction, carries with it the power to do all such things as are necessary to give effect to the principal power, and this is true even under the rule of strict construction applicable to section 18, art. 10, of the Constitution, supra.

"The end being required, it has been deemed a just and necessary implication that the means to accomplish it are given also; or, in other words, that the power flows as a necessary means to accomplish the end." *Story, J., in Prigg v. Pennsylvania*, 13 Pet. 539, loc. cit. 619 (10 L. Ed. 1060).

"Thatsoever the law will imply is as much part and parcel of a legislative enactment as though in terms inserted therein." *State ex rel. v. Mason*, 155 Mo. 486, loc. cit. 500, 55 S.W. 636, 640; *State ex rel. v. Blair*, 245 Mo. 680, loc. cit. 697, 151 S.W. 148.

"In the exercise of this power the board employed relator and we have as we think shown that the work done by him was necessary in order to enable the board properly to discharge its duties. The board obviously thought it was, and, as will be shown later, the Legislature must be presumed to have so found."

Since the Board has been given the duty to enforce compulsory arbitration as provided in the act, we think that the necessary powers to perform this duty can be implied, including the payment of the arbitrators and the cost of the arbitration proceedings.

Under a general rule of construction, the acts of the Legislature are not to be construed so as to be meaningless, but should be construed to effectuate the purposes for which the act was passed. If it were to be held that the Board of Mediation is powerless to pay the expenses and compensate for the services of the arbitrators, a result may be reached where the Board would be unable to secure arbitrators and they would be powerless to carry out the duties imposed upon them by House Bill No. 180.

Where two acts are passed on the same subject matter at the same session of the Legislature, they must be construed together (Curtwright v. Crow, '44 Mo. App. 563).

In House Bill No. 445, an appropriation bill passed by the 64th General Assembly, the Legislature provided for the expenses of the Board of Mediation and, we believe, showed a legislative intent that the panel members should be paid out of the appropriation for the Board of Mediation. Section 9.330 reads:

"There is hereby appropriated out of the State Treasury, chargeable to the General Revenue Fund, the sum of Fifty Thousand Dollars (\$50,000.00) or so much thereof as may be necessary for the purpose of paying the salaries, wages and per diem of the members, employees and clerical hire and other necessary expenses of the State Board of Mediation including the per diem and necessary expenses of specially appointed panel members, as provided by law, for the period beginning

July 1, 1947, and ending June 30, 1948."
(Underscoring ours.)

The general purpose and object of a statute is never to be overlooked in its constructional application, and it should always have a reasonable application. Statutes in pari materia are to be treated as embodied in one section and considered together, in order to elucidate the legislative intent in their enactment, though they are found in different sections of the Revised Statutes under different headings (State v. Abbs, 89 No. App. 95).

Furthermore, we do not believe that there would be a different situation where the disputing parties selected the panel members as provided in the act instead of waiting for them to be appointed by the State Board of Mediation. To hold that to be the law, again an absurdity might result from the practical application of the act. If it were held in one instance that the panel members might be paid for their services and recover expenses merely because they were appointed by the State Board of Mediation and not designated by the disputing parties, it is easy to see that the disputants would, in all probability, delay their designation of arbitrators and allow the Board to appoint the members of the panel.

Conclusion.

It is the opinion of this department that it was the legislative intent that the expenses and compensation of the members of the Public Hearing Panel appointed pursuant to the provisions of House Bill No. 130 should be paid out of the appropriation of the State Board of Mediation provided for in Section 9.330 of House Bill No. 445, passed by the 64th General Assembly.

Respectfully submitted,

JOHN R. BAFFY
Assistant Attorney General

APPROVED:

J. W. TAYLOR
Attorney General

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