

APPROPRIATIONS: Appropriation for eradication of Bangs disease in cattle may be made out of "The Missouri Postwar Reserve Fund."

FILED

18

April 11, 1949

H-12

Honorable Fred R. Columbo
Chairman
House Appropriations Committee
State Capitol Building
Jefferson City, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department and reading as follows:

"The Veterinary Division of the Department of Agriculture is planning an extensive program to eradicate Bangs Disease in cattle throughout the State of Missouri.

"On account of the wide spread prevalence of this dreaded disease the program calls for a project of such magnitude that will necessitate the appropriation of a large sum of money. On account of many cases of Undulant Fever, the direct cause of which comes from the drinking of milk from dairy cows affected by this disease, we are anxious to do everything we can to assist in this program.

"If legal, we would like to make the appropriation for this purpose out of the Postwar Reserve Fund, but do not know if an appropriation of this nature would come within the purpose of Section 1 of House Bill No. 14, page 223 of the 1945 Laws of Missouri. On this point we would be pleased to have an opinion from your department, at your earliest convenience, so that the House Appropriations Committee can

govern itself accordingly.

"Thanking you, I remain "

Section 1, Laws of Missouri, 1945, page 223, which section creates the Missouri Postwar Reserve Fund, reads as follows:

"There is hereby created a postwar reserve fund to be known as 'The Missouri Postwar Reserve Fund' which shall consist of moneys appropriated by the General Assembly of the State of Missouri to be credited to such fund, and any moneys paid into the state treasury, and required by law to be credited to such fund. This fund shall be kept separate and apart from all other moneys in the state treasury and shall be paid out as provided by law. Such moneys, after appropriation pursuant to law, shall be available only for postwar capital projects, postwar public works, postwar unemployment projects, and for other purposes considered by the general assembly to be necessary for postwar rehabilitation and improvements for Missouri and for the administration expenses of such projects, for the preparation and review of plans and specifications for such purposes, for engineering and other services incidental to postwar planning, including field surveys and sub-surface investigations, and other matters necessary for the carrying out of postwar projects."

We believe that the intent of the Legislature in creating the Missouri Postwar Reserve Fund was to provide a fund from which improvements and projects necessary for the well being of the state could be made and that a determination of the necessity for such projects is in the Legislature. The fact that Bangs Disease is prevalent

throughout the entire State of Missouri and is adversely affecting the livestock industry of this state, and the fact that the prevalence of Bangs Disease in cattle is causing the health of our citizens to be impaired through contracting undulant fever, we believe is ample reason for a determination by the Legislature that the eradication of Bangs Disease in cattle is a purpose necessary to be carried out in this state and that it is a purpose laid down in the section creating the Postwar Reserve Fund, which authorizes the expenditure to be made out of such Postwar Reserve Fund. We find the following, with regard to animal diseases which may be transmitted to mankind, in 3 C.J.S., page 1151:

"Those diseases afflicting domestic animals which are transmissible to mankind or which are likely to assume epidemic proportions are universally regarded as dangerous to the public health or at least as a scourge upon the legitimate, and frequently important, industry of live stock raising. It is, therefore, clearly within the police power of a state to prescribe and enforce regulations to stamp out or prevent the spread of such diseases in the furtherance of the general welfare; and it is also within the state's sovereign powers to enact and bring into operation such sanitary measures as are suitable to the fostering of the live stock industry. * * * ."

We do not believe that expenditures out of the Postwar Reserve Fund are limited to the construction of buildings, roads or structures, but that the expenditures out of the Postwar Reserve Fund may be made for such projects as the Legislature may deem necessary for the welfare of the State of Missouri.

CONCLUSION.

It is the opinion of this department that an appropriation for the eradication of Bangs Disease in cattle

Honorable Fred R. Columbo -4-

in the State of Missouri may be made from "The Missouri Postwar Reserve Fund" which fund is created by Section 1, Laws of Missouri, 1945, page 223.

Respectfully submitted,

C. B. BURNS, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

CBBJr:ir