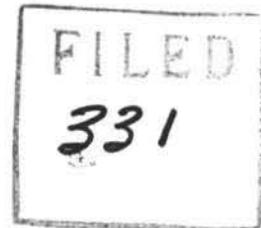


December 31, 1974

OPINION LETTER No. 331

Mr. Robert L. James, Commissioner
Office of Administration
Room 125, State Capitol
Jefferson City, Missouri 65101



Dear Mr. James:

This is in reply to your request for an opinion of this office asking several questions concerning Section 6.360 of C.C.S.H.B. 1006, 77th General Assembly. The first question is whether moneys that have been appropriated for one object purpose can be expended for another object purpose.

You state that in Section 6.360 the legislature did not appropriate \$128,000.00 from general revenue as requested by the Department of Social Services for building and grounds expenses for the Federal Soldiers' Home; whereas this amount was apparently included under the grouping travel and transportation, office supplies and equipment, communications, data processing expense, printing and publication, institutional services, other expenses, in that this grouping has an excess of \$128,000.00 over the amount requested by the Department.

Section 6.360 provides in appropriate part as follows:

"To the Department of Social Services

. . .

For Federal Soldiers' Home

Personal Service (FTE 27).....\$148,924

Equipment Purchase and Repair..... 1,000

Operation:

Travel and Transportation,

Office supplies and equipment,

Communications, Data Processing
 expense, Printing and publication,
 Institutional services, Other
 expenses.....\$213,126
 Professional and
 Technical Services. 400
 Total Operation.....\$213,526

From General Revenue.....\$363,450
 Personal Service (FTE 97.5).....\$606,469
 Equipment Purchase and Repair..... 18,400

Operation:

Travel and transportation,
 Office supplies and equip-
 ment, Communications, Data
 Processing expense, Printing
 and publication, Institutional
 services,
 Other expenses.....\$112,464
 Professional and
 technical services... 1,000
 Building and grounds
 expense..... 13,585

Total Operation \$127,049
 From State Federal Soldiers'
 Home Fund.....\$751,918

Total..... \$1,653,690

The purpose of this appropriation shall not
 be altered without the prior approval
 of the Committee on State Fiscal
 Affairs and the concurrence of the
 Commissioner of Administration and
 any moneys not spent specifically
 as directed shall lapse."

Finally, you state that the Committee on State Fiscal
 Affairs takes the position that such moneys can be shifted
 from one object purpose to another object purpose in that the
 \$128,000.00 can be transferred to "building and grounds."
 You have enclosed a letter from the Director of the Committee
 on State Fiscal Affairs, addressed to the Director of the De-
 partment of Social Services reading in part as follows:

"Please be advised that the Committee on
 State Fiscal Affairs in its July 16, 1974
 meeting agreed that you should make the
 necessary shift in the Federal Soldiers'

Home, Operation Appropriation, in order that the \$128,000.00 be placed in the Building and Grounds Expense account. This shift is to be made in lieu of a request for an emergency or supplemental appropriation."

What then was the legislative intent as to the purpose for which these appropriated sums may be expended? In Section 6.360, the appropriations are broken down into the general categories of personal service, equipment purchase and repair, operations and capital improvement. As far as this office is aware, the legislature has for many years appropriated for these four general purposes. Here, the legislature has then specifically broken down the category "operations" into a number of subcategories as demonstrated by the language quoted from Section 6.360.

In doing so, the legislature has also departed from the customary practice of putting the sum appropriated in the far right-hand column, and placed amounts to the left of this column and next to the various subcategories or groups of subcategories, and then put the sum of the amounts appropriated to these subcategories in the far right-hand column designated as "Total Operation."

Your problem would be solved if these subcategories with separate sums were not restrictive but only informational. Then, the total sum for "Total Operation" could be expended in any manner for any purpose generally considered to be in "operations." Thus in Section 6.360 the total sum of \$340,575 (\$213,526 + \$127,049), or any portion thereof, or none at all, could be spent for travel and transportation, or any of the other listed items under operations, as well as buildings and grounds, and also any other subcategories not listed, but normally considered to be "operations."

This would then be precisely the same as in the past when only a total sum was appropriated for operations, with no subcategories listed. It is obvious the legislature intended to be more restrictive, and narrow the object purpose for which moneys are to be appropriated in the general area of operations by this method of detailed, itemized appropriations. Furthermore, it is clear that only those "items of separable sums of money appropriated (see State ex rel. Cason v. Bond, l.c. 392 for this definition of 'item')" such as \$213,126, \$400, \$112,464, \$1,000 and \$13,585 are to be spent for those specific object purposes.

There is no question of course that the legislature has the power to state the purpose for which appropriations are made. In fact there is a duty to fix a purpose for each appropriation and moneys cannot be paid out except as for the purpose fixed. See Article IV, Sections 23 and 28, Constitution of Missouri; Nacy v. LePage, 111 S.W.2d 25, 26 (Mo. 1937); see also State ex rel Cason v. Bond, supra.

It is clear therefore that these appropriated items can only be used for the specific object purposes expressed. Accordingly, looking at Section 6.360, it is obvious that the legislature has only appropriated the sum of \$13,585.00 to the Department of Social Services for the purpose of Building and Grounds Expense for the Federal Soldiers' Home. It is our opinion, that none of the sums appropriated in Section 6.360 for any of the other object purposes can be expended for buildings and grounds expense. This includes those sums which are appropriated for specific object purposes and also "other expenses". In our opinion, since buildings and grounds expense is specifically provided for, buildings and grounds expense is in Section 6.360 excluded from consideration as an "other expense". In Section 6.360 therefore, other expenses could only be those operation expenses which are not listed specifically in Section 6.360.

The next question you ask is whether the Committee on State Fiscal Affairs can shift the moneys from one object purpose to another. Of course this attempt to shift money is in effect the same as altering the purpose of appropriations. Therefore, we assume any such attempt is based on Section 1.6(2), S.B. 1, and the language in these appropriations, supposedly giving such power to the Committee on State Fiscal Affairs and the Commissioner of Administration. In Opinion No. 190, April 25, 1974, Barbero, we held such provisions unconstitutional. Therefore, there is no such power to so shift appropriations.

Very truly yours,

JOHN C. DANFORTH
Attorney General