

APPROPRIATIONS: Members of State Board of Nursing entitled  
STATE BOARD OF NURSING: to compensation of ten dollars per day on  
and after date of appointment October 27,  
1953, 95 per cent of appropriations under House Bill 384, Section  
7.390, passed by the 67th General Assembly as of August 29, 1953,  
shall be transferred to the State Board of Nursing Fund for the  
use of the State Board of Nursing and expenses of said Board shall  
be paid out of such appropriation and that appropriated under House  
Bill 11, passed by the Second Session, 67th General Assembly.



June 3, 1954

Honorable Newton Atterbury  
State Comptroller  
Jefferson City, Missouri

Dear Mr. Atterbury:

This will acknowledge receipt of your request for an opinion,  
which for the sake of brevity, we shall restate.

You first inquire when the rate of compensation of members  
of the State Board of Nursing changes from eight dollars to ten  
dollars per day.

Prior to the enactment of Senate Bill 165, passed by the  
67th General Assembly, known as Chapter 335 Missouri Revised  
Statutes Cum. Supp. 1953, Section 335.170 RSMo 1949 fixed the  
compensation of the members of said Board at eight dollars per  
day for each day or a part thereof for attending meetings or  
while engaged in otherwise discharging their duties. However,  
this section was repealed by Senate Bill 165, supra, and now  
under Section 335.150 Missouri Revised Statutes Cum. Supp. 1953,  
each member of said board shall receive ten dollars per day for  
each day she is engaged in the discharge of her duties.

The question now is, when did Section 335.150 supra, become  
effective? All bills passed by that particular session of the  
67th General Assembly except appropriation acts and those carrying  
emergency clauses became effective under Section 29, Article III,  
Constitution of Missouri, 90 days after adjournment. The General  
Assembly adjourned that particular session on May 31, 1953. In  
view of the above and foregoing, Section 335.150 supra, providing  
for compensation of such members for ten dollars per day became  
effective on August 29, 1953.

Senate Bill 165 became effective August 29, 1953. Said  
bill repealed Chapter 335 Revised Statutes of Missouri 1949,

Honorable Newton Atterbury

which created a Board of Examiners and Registrars of Nurses and amongst other things provided compensation for the members of said board. In your request you state that the Governor appointed members to the new State Board of Nursing on October 27, 1953. Therefore, during the interim, the effective date of Senate Bill 165 supra, August 29, 1953, and date of appointment of members of the new State Board of Nursing, October 27, 1953, there was in fact no board under either the old or the new law. Had Chapter 335 Revised Statutes of Missouri 1949 not been outright repealed by Senate Bill 165 supra, then the members of the old board would carry over until their successors were duly appointed and qualified as provided by statute and the Constitution of Missouri. So, strictly speaking, the rate of compensation changed from eight dollars per day to ten dollars per day on October 27, 1953, when the members of the new State Board of Nursing were duly appointed by the Governor.

Therefore, it is the opinion of this department that members of the State Board of Nursing are entitled to receive ten dollars per day compensation on and after October 27, 1953, the date of their appointment.

You next inquire if it will be legal for you to transfer 95 per cent of the balance of the appropriations provided in House Bill 384, Section 7.390, passed by the 67th General Assembly, to the State Board of Nursing fund and then to pay expenses of the present State Board of Nursing from the amount transferred and that appropriated under House Bill 11, passed by the 67th General Assembly, Second Extra Session, which was in the amount of \$11,700.00.

House Bill 384, Section 7.390, passed by the 67th General Assembly, which convened in Jefferson City on January 7, 1953, appropriates \$56,000.00 out of the state treasury chargeable to the State Board of Nurses Examiners Fund for use of the State Board of Nurses Examiners for the biennial July 1, 1953, to June 30, 1955. (Said appropriation act was approved July 14, 1953.)

House Bill 11, passed by the 67th General Assembly, Second Extra Session, is an appropriation out of state treasury chargeable to the State Board of Nursing Fund in the sum of \$11,700.00 for use of the State Board of Nursing for a period from the effective date of said appropriation act and ending July 30, 1955, and said appropriation act concludes with the following paragraph:

Honorable Newton Atterbury

"The foregoing amounts are in addition to the amounts appropriated for the same purposes for the 1953-55 biennial period in Section 7.390 of House Bill No. 384 of the Sixty-seventh General Assembly, approved July 14, 1953."

Senate Bill 165, Chapter 335, Missouri Revised Statutes Cum. Supp. 1953, was approved by the Governor on April 1, 1953. So, we can assume, under established rules of statutory construction, that the 67th General Assembly of the State of Missouri, in passing the foregoing appropriation acts were also apprised of the fact that Senate Bill 165 had been enacted, since the 67th General Assembly passed both the appropriation acts referred to and Senate Bill 165 supra. *Smith v. Pettis County*, 136 S.W. (2d) 282, 345 Mo. 839; *Sikes v. St. Louis & S.F.R. Co.*, 105 S.W. 700, 127 Mo. App. 326; *Timmonds v. Kennish*, 149 S.W. 652, 244 Mo. 318. We merely mention this fact in an effort to try to determine what the legislative intent was with regard to these particular appropriation acts.

Strictly speaking, there was not, in Chapter 335, RSMo 1949, or the act repealing that Chapter and creating the new nursing law, any such board as the "State Board of Nurses Examiners" or "State Board of Nurses Examiners Fund," which were referred to as such in the appropriation act, House Bill 384, Section 7.390 supra.

Section 335.120, RSMo 1949, created a "Board of Examiners and Registrars of Nurses," and Section 335.080 RSMo 1949, provided for the deposit of fees and money received by said Board in the state treasury to the credit of "Board of Nurses Fund." Section 335.130, Missouri Revised Statutes Cum. Supp. 1953 created what is known as a "State Board of Nursing," and Section 335.180 Missouri Revised Statutes Cum. Supp. 1953 provides that all funds received by the above Board shall be paid to the director of revenue and placed to the credit of the "State Board of Nursing Fund." Section 335.180 Missouri Revised Statutes Cum. Supp. 1953 provides that on the effective date of said chapter, not over 95 per cent of all funds held in the name of the State Board of Nurses Examiners shall be transferred to the Board created by this chapter, (which is State Board of Nursing). Furthermore, it is our understanding that expenses of the present and past board have been paid out of the appropriations contained in House Bill 384, Section 7.390 supra. So, we believe it was clearly the legislative intent that the appropriations of House Bill 384, Section 7.390 supra, was for the credit of

Honorable Newton Atterbury

the State Board of Nursing Fund for the use of the State Board of Nursing.

This is further supported by the fact that the same General Assembly, in passing House Bill 11 supra, which was a later appropriation act and which was specifically chargeable to the State Board of Nursing Fund for use of the State Board of Nursing, contained in the last paragraph of said appropriation act, a provision that such appropriation was in addition to amounts appropriated for the same purposes for biennial period 1953-55 in House Bill 384 of the 67th General Assembly. Also that all such fees received by either the former Nursing Board or the latter Board, successor in office, were all to be used for one purpose, that of expenses of the Nursing Board of the State of Missouri. Furthermore, this is supported by the fact that the administrators of said act and the executive department of the State of Missouri have construed the law by their actions, in paying expenses of both Boards out of the appropriations provided under House Bill 384, Section 7.390 supra. Robertson v. Manufacturing Lumberman's Underwriters, 145 S.W. (2d) 134, 346 Mo. 1103; Williams v. Williams, 30 S.W. (2d) 69, 325 Mo. 963.

#### CONCLUSION

It is the opinion of this department that in fact the rate of compensation for board members changed from eight dollars to ten dollars per day on and after August 29, 1953, the effective date of Senate Bill 165, passed by the 67th General Assembly, State of Missouri; however, since said bill repealed the former law, Chapter 335 Revised Statutes of Missouri 1949, creating the State Board of Examiners and Registrars of Nurses and fixing the compensation of said members, there being no board in existence during the interim, August 29, 1953, and date of appointment of members of the new State Board of Nursing by the Governor on October 27, 1953, that the compensation of ten dollars per day provided under Senate Bill 165 supra, for board members in fact was effective on and after October 27, 1953. It is the further opinion that 95 per cent of the balance of the appropriations in House Bill 384, Section 7.390, as of August 29, 1953, effective date of Senate Bill 165, passed by the 67th General Assembly, should be transferred to the State Board of Nursing Fund and expenses of the present State Board of Nursing may be paid out of such funds and those provided under House Bill 11, passed by the 67th General Assembly, Second Extra Session.

Honorable Newton Atterbury

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Aubrey R. Hammett, Jr.

Very truly yours,

JOHN M. DALTON  
Attorney General

ARH:sm