

DEPARTMENT OF AGRICULTURE:
APPROPRIATIONS:

Salary of State Commissioner of Agriculture may be paid from funds made available by Section 4.710 of House Bill No. 4, and Section 13.740 of House Bill 558, as enacted by the 68th General Assembly. The salary of the State Commissioner of Agriculture may also be paid from funds appropriated by Section 4.765 of House Bill No. 4, adopted by the 68th General Assembly if such payment is authorized by appropriate Federal authority



June 8, 1956

Honorable L. C. Carpenter
Commissioner of Agriculture
Jefferson City, Missouri

Dear Mr. Carpenter:

Reference is made to your recent request for an official opinion of this office wherein you inquire whether the salary of the Commissioner of Agriculture can be paid from the various funds available to the Department or only from the funds appropriated by Section 4.710 of House Bill No. 4 enacted by the 68th General Assembly.

Section 4.710 of House Bill No. 4, to which you refer, provides, in part, as follows:

"There is hereby appropriated out of the State Treasury, chargeable to the Agricultural Fees Fund, the sum of Four Hundred Twenty-two Thousand Six Hundred Forty Dollars (\$422,640.00) for the use of the director of the Department of Agriculture for the payment of salaries wages and per diem of the commissioner, officers and employees; for the original purchase of property; for the repair and replacement of property and for operating expenses; for the period beginning July 1, 1955 and ending June 30, 1957, as follows:

"Personal Service:

"For the payment of salaries, wages and per diem of the Commissioner, Assistant Commissioner, chief clerk, secretary, bookkeeper, chief chemist, assistant chemist, stenographers, clerks, district inspectors, mailing clerk, janitor, federally licensed fruit and vegetable inspectors, locker plant inspectors, shipping inspectors, and other necessary employees. . . \$252,320.00."

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You state that the Department of Agriculture is operated through some nineteen separate funds not including the State Fair and Grain Warehouse Funds. We have carefully examined Sections 4.710 to 4.890 of House Bill No. 4, and Section 13.750 of House Bill 558 and do not find any appropriation other than Section 4.710, which specifically indicates that the appropriation is to be used for payment of the salary and per diem of the Commissioner of Agriculture. Your attention is invited to Section 23 of Article IV of the Constitution, which provides, as follows:

"The fiscal year of the state and all its agencies shall be the twelve months beginning on the first day of July in each year. The general assembly shall make appropriations for one or two fiscal years, and the 63rd General Assembly shall also make appropriations for the six months ending June 30, 1945. Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose."

Section 21.260, RSMo 1949, adopted in conformity with Section 23 of Article IV of the Constitution, provides as follows:

"Appropriations for the operation and maintenance of departments shall be separately itemized; and separate appropriations shall be made for each item of extraordinary operation and maintenance expenditure and for each major capital expenditure. Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose."

The foregoing constitutional and statutory provisions require every appropriation law to distinctly specify the amount and purpose of the appropriation and further provide that no money shall be withdrawn from the state treasury unless the state auditor certifies that the expenditure is within the purpose of the appropriation. It is apparent that Section 4.710 of House Bill No. 4 was adopted in conformity with the requirement that an appropriation distinctly specifies the purpose of the appropriation which particular appropriation included the salary and per diem of the Commissioner of Agriculture.

In view of the fact previously noted that none of the other appropriations to the Department of Agriculture distinctly specify that they are to be used to pay the salary of the Commissioner of

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Agriculture whereas Section 4.710 does distinctly specify that said appropriation is to be used for that purpose, we are led to the conclusion that the Legislature considered the payment of the Commissioner of Agriculture's salary and intended that it be paid only out of the funds appropriated by Section 4.710 of House Bill No. 4.

We cannot assume that Section 4.710 was not intended to be complete for the purposes specified, absent a distinct specification in companion appropriations.

We wish to note and consider specifically Section 4.765 of House Bill No. 4 adopted by the 68th General Assembly. Said section provides as follows:

"Federal funds from the federal government made pursuant to Public Law 733 or any other Federal Act incident thereto for carrying out a marketing program on agriculture and other products produced by the State of Missouri. There is hereby appropriated the sum of One Hundred Thousand Dollars (\$100,000.00) in all allotments, grants, and contributions of funds which may be received by this State from the federal government for the period beginning July 1, 1955, and ending June 30, 1957, which are made pursuant to Public Law 733 or any other Federal Act incident thereto for carrying out a marketing program on agriculture and other products produced by the State of Missouri, for the purpose of paying any federal grants or allotments received by the State of Missouri for such purpose, and are hereby appropriated for the use of the State Department of Agriculture."

This section is not an appropriation of state revenues in the ordinary sense but is an appropriation of allotments, grants and contributions of funds which may be received by the state from the Federal Government for the period July 1, 1955, to June 30, 1957. The purpose of such grants and contributions made by the Federal Government is to aid in carrying out a marketing program contemplated by Public Law 733 (Title 7 USCA, Sec. 1621 et seq.). We have examined Public Law 733 and do not find anything which would preclude the use of said funds to compensate a state officer engaged in cooperative work and therefore we are of the opinion that said fund may be used for that purpose if authority therefor is granted by the appropriate agency of the Federal Government.

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We wish also to note specifically Section 13.740 of House Bill 558, adopted by the 68th General Assembly. Said section provides as follows:

"There is hereby appropriated out of the State Treasury chargeable to the Agricultural Fees Fund, for the use of the Commissioner of the Department of Agriculture, complying with the provisions of House Bills 177, 257 and 101, Acts of the 68th General Assembly, for the period beginning July 1, 1955, and ending June 30, 1957, as follows:

"Personal Service\$100,000.00
Additions, Repairs and Replacements.	800.00
Operation.	<u>74,200.00</u>
Total.\$175,000.00

"The foregoing amounts are in addition to the amounts appropriated for the same purposes as set out in Section 4.710 of House Bill 4, an act of the 68th General Assembly."

Said section provides that the amounts specified are in addition to the amounts appropriated for the same purposes as set out in Section 4.710 of House Bill No. 4 which, of course, provides for the salary of the Commissioner of Agriculture.

CONCLUSION

Therefore, it is the opinion of this office that the salary of the State Commissioner of Agriculture may be paid from funds made available by Section 4.710 of House Bill No. 4 and Section 13.740 of House Bill 558 as enacted by the 68th General Assembly.

We are further of the opinion that the salary of the State Commissioner of Agriculture may likewise be paid from funds appropriated by Section 4.765 of House Bill No. 4, adopted by the 68th General Assembly, if such payment is authorized by appropriate Federal authority.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Donal D. Guffey.

Yours very truly,

John M. Dalton
Attorney General