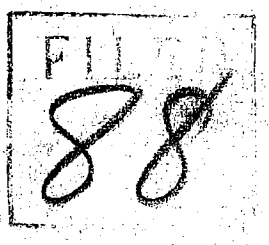
APPROPRIATIONS: Right of General Assembly to amend an appropriation
GENERAL ASSEMBLY: law.



January 6, 1959

Honorable J. E. Taylor
Director, Division of
Employment Security
Jefferson City, Missouri

Dear Sir:

This refers to your letter requesting an opinion whether a law enacted by the Sixty-ninth General Assembly appropriating money for the period beginning July 1, 1958, and ending June 30, 1959, may be amended by the Seventieth General Assembly to provide that the appropriation is for the period beginning July 1, 1958, and ending June 30, 1960, or, in other words, for two fiscal years instead of one fiscal year, as originally provided.

The general rule is that, subject only to constitutional limitations, a state legislature may amend any existing law of the state. Thus, in 82 Corpus Juris Secundum, Statutes, Section 9 at pages 23 and 24, it is stated:

> "Subject only to constitutional limitations and excepting only those subjects delegated to the federal government or prohibited by the federal Constitution, * * * ** * *state legislatures have power to enact statutes or laws, which power has been characterized in various ways, such as absolute, plenary, or supreme. * * * * *
>
> "The power of a legislative body to enact statutes or law is a continuing one, and the exercise of the power once does not exhaust it, but it may from time to time amend, extend, or restrict the original enactment provided it keeps within constitutional bounds. * * * * *"

Again, in 82 Corpus Juris Secundum, Statutes, Section 243b, at pages 412 and 413, it is stated:

> "Generally, the power to amend statutes resides in the lawmaking body; courts have no power to amend statutes, and should not attempt to do so. While it is as competent for the people to withhold from the legislature the power of amending an act as to withhold the power of amending the constitution itself, generally the power to amend or modify statutes resides in the legislature, in any manner not inconsistent with some provision of the constitution limiting the legislative power in that respect; and the legislature cannot restrict or limit its right to exercise the power of legislation by prescribing modes of procedure for the amendment of statutes. It is competent for the legislature, at the same session, to alter, modify, or repeal a law by a subsequent act, and a succeeding legislature can amend acts passed by its predecessors without express authority. * * * * *"

In Birmingham Drainage District vs. Chicago, Burlington & Quincy Railroad Company, Mo., 202 S.W. 404, 409, in dealing with the validity and effect of a law in the light of previously enacted statutes, the Supreme Court of Missouri stated with respect to the previously enacted statutes as follows:

> "* * * *The right to enact these statutes includes the right to repeal or modify them or to limit their application in any manner not inconsistent with some provision of the Constitution limiting the legislative power in that respect. * * * * *"

See also State ex rel. Drain vs. Becker, Mo., 240 S.W. 229.

We find no authority in Missouri or elsewhere that the rule with respect to the amendment of appropriation laws is any different from that applicable to the amendment of other laws; and, therefore, it appears that the right of a state legislature to amend any existing appropriation law is subject only to constitutional limitations thereon.

It will be noted that in the foregoing we have referred only to the amendment of existing laws and, since questions have arisen in some jurisdictions with respect to a right of a legislature to amend a law which has expired, it should be stated here that we are assuming, for the purposes of this opinion, that the law making the amendment in question would become effective prior to June 30, 1959, so that it is not necessary to discuss questions which might arise if the amendment

did not become effective until after the expiration of the period for which the appropriation was originally made.

Article III, Section 1, Constitution of Missouri, provides generally that the legislative power shall be vested in the General Assembly; and we find nothing in the Constituion which so limits that power as to prevent the amendment of an existing appropriation law in the manner described above. In this connection, it will be noted that such an amendment would not conflict with the provision of Article IV, Section 23, Constitution of Missouri, that the General Assembly shall make appropriations for one or two fiscal years, since the amendment would simply extend the appropriation period from one fiscal year to two fiscal years. It also should be noted that the amendment would be liberalizing in nature and could in no wise adversely affect the rights of persons who had entered into contracts with the state in reliance upon the appropriation as originally made.

Finding no constitutional limitation prohibiting the enactment of an amendment of the kind described above, it is our opinion that the General Assembly has the right and power to enact such an amendment.

CONCLUSION

It is the opinion of this office that a law enacted by the Sixty-ninth General Assembly appropriating money for the period beginning July 1, 1958, and ending June 30, 1959, may be amended by the Seventieth General Assembly, by a law effective on or before June 30, 1959, to provide that the appropriation shall be for the period beginning July 1, 1958, and ending June 30, 1960.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. John C. Baumann.

Yours very truly,

John M. Dalton
Attorney General

JCB:mw