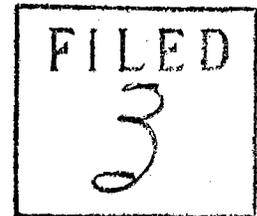


APPROPRIATIONS: Applicability of House Bill No. 837 of the 63rd General Assembly to expenditures made by Central Missouri State College.

November 22, 1946



11/25

Mr. E. G. Armstrong, Comptroller
Department of Revenue
Jefferson City, Missouri

Dear Sir:

Reference is made to your inquiry of recent date, requesting an official opinion of this office, and reading as follows:

"Attached hereto is a copy of a letter received from Mr. G. W. Diemer, president of Central Missouri State College at Warrensburg, Missouri requesting a credit of \$266,661.22 under the provisions of House Bill No. 837.

"Will you please advise us if this request complies with the requirements of House Bill No. 837 and if a credit to the Central Missouri State College in the amount asked for would be in order."

The letter received by you from Mr. G. W. Diemer, President of Central Missouri State College, and referred to by you in your request for an official opinion, reads as follows:

"Under House Bills 932 and 837 the CENTRAL MISSOURI STATE COLLEGE recently purchased from the College Dormitory and Development Association the Laura J. Yeater Hall for women, at a cost of \$250,000, for which amount revenue bonds are now being issued.

"All furnishings in Laura J. Yeater Hall belong to the College, and for the new wing which was occupied at the opening of the school term in September of this year, the college purchased from Agency Funds, furni-

ture and equipment in the amount of \$16,661.22. The total investment of the College in the Laura J. Yeater Hall, building and site, and in the furnishings of the new wing, is therefore \$266,661.22. This project is a part of the dormitory program of the CENTRAL MISSOURI STATE COLLEGE, as provided under House Bill 837. I am therefore asking that we be allowed credit by the Comptroller for the above amount, under the matching provisions of House Bill 837."

House Bill No. 837 of the 63rd General Assembly became effective on July 3, 1946. It is an appropriation bill appropriating money out of the Missouri Post War Reserve Fund to various state educational institutions for the purpose of assisting such institutions in developing a program of dormitory, dining room, social and recreational facilities. This assistance is to be given such institutions upon a basis of matching with state money expenditures made by the several institutions under a program for the construction or purchase of facilities of the types enumerated in the Act. Under the provisions of paragraph F of Section 1 of the Act, there has been appropriated for such purposes to the Central Missouri State Teachers College a maximum of \$452,500.00.

We note in the letter received by you from President Diemer that the Central Missouri State College has issued \$250,000.00 of revenue bonds, which have been used to purchase the Laura J. Yeater Hall for women, which is a dormitory located in Warrensburg, Missouri. We also note that in addition to the purchase of the building proper, an additional sum of \$16,661.22 has been expended for the purchase of furniture and equipment to outfit the dormitory. Each of such expenditures has been made subsequent to the effective date of House Bill No. 837 of the 63rd General Assembly, and has been made as a part of the program of the Central Missouri State College under the provisions of House Bill No. 837 of the 63rd General Assembly. In the opinion we shall consider the expenditures separately.

With respect to the purchase of the Laura J. Yeater Hall, we note that such purchase has been consummated through the use of the proceeds of the sale of revenue bonds in the sum of \$250,000.00. The issuance of such bonds by state educational institutions has been authorized under the provisions of House Bill No. 932 of the 63rd General Assembly. In the premises, we think the following portion of House Bill No. 837 of the 63rd General Assembly to be pertinent:

"Section 3. No funds provided under provisions of Section 1 of this Act shall be expended unless equally matched by funds provided for by the issuance of revenue bonds by the respective institutions or funds, other than State appropriated moneys, supplied by the respective institutions or from federal grants made to them for such purposes. Provided however, that the cost of any dormitory now under construction or which may be purchased or reconstructed which shall provide a part of the program under the provisions of this Act shall be considered as matching funds as required in this section." (Emphasis ours.)

You will note that under this section of the Act, no state moneys are to be made available to the institutions except upon such institutions providing matching funds. Such matching funds must be derived from other sources than state appropriated moneys. The revenue bonds issued under the provisions of House Bill No. 932 of the 63rd General Assembly do not represent state appropriated moneys, and, in accordance with the terms of the act, are payable solely and only from the net income and revenues of the projects for the construction or purchase of which they are issued. Furthermore, in order to qualify for the matching funds available under House Bill No. 837 of the 63rd General Assembly, it is necessary that the purchase of existing facilities be made as a part of a program under the provisions of the Act mentioned.

Applying these requirements to the statement found in the letter of President Diemer that the existing facility has been acquired by use of the proceeds arising from the sale of revenue bonds, that such purchase has been consummated subsequent to the effective date of House Bill No. 837 of the 63rd General Assembly, and that the acquisition of such facility constituted a part of the program of the Central Missouri State College under the provisions of said act, we reach the conclusion that such expenditure is one that entitles the Central Missouri State College to a matching appropriation of \$250,000.00 from state funds, as provided in House Bill No. 837 of the 63rd General Assembly.

With respect to the expenditure of \$16,661.22 for furniture and equipment in the existing facility, a different question presents itself. At the outset, we note from President Diemer's letter that the money used for such purchase arose from agency funds and did not constitute a part of any state appropriation to the college. We also note that the acquisi-

tion of the furniture and equipment constituted a part of the program of the college under the provisions of House Bill No. 837 of the 63rd General Assembly. To this extent, the expenditure is clearly within the requirements of House Bill No. 837 of the 63rd General Assembly. The only remaining question to be resolved, then, is whether or not the proviso in the Act, allowing expenditures representing the "cost of any dormitory" to be considered as matching funds, comprehends within its definition, not only the physical structure, but also the furniture and equipment necessarily incident to the operation of the dormitory. The letter of President Diemer does not precisely indicate whether "furniture and equipment" is limited only to movable personal property such as beds, chairs, desks, etc., or whether it also includes property which has become affixed to the realty and has become an integral part thereof, such as heating and plumbing facilities. However, we do not believe that this distinction is of great importance.

It is, of course, a primary rule of construction of statutes that the intent of the Legislature be ascertained. We quote from Metropolitan Life Ins. Co. v. Scheufler, 180 S. W. (2d) 742:

" * * * our first duty, in construing a statute of our state, is to ascertain the intent of our legislature. * * *"

Further, in interpreting a statute, the purpose of the law should be ascertained. We quote from Wallace v. Woods, 102 S. W. (2d) 91:

" * * * "the manifest purpose of the statute, considered historically," is properly given consideration. * * *"

Considering the reasons which prompted the enactment of House Bills Nos. 837 and 932 by the 63rd General Assembly, we give due regard to the fact that a critical shortage of housing facilities then existed at the various state educational institutions as a result of the return of many members of the military forces whose programs of educational advancement had been interrupted. Examining the titles of the two bills, it becomes quite apparent that they were enacted for the purpose of, first, authorizing the various state educational institutions to provide funds for the construction or purchase of housing, recreational and social facilities, and, secondly, to assist in such programs by the state itself spending state revenue in aid thereof. The titles of the bills clearly indi-

cate that they were designed not solely for the purpose of aiding in the construction or purchase of mere physical structures, but were intended to assist in procuring, in addition, the necessary equipment therefor. With this in mind, we believe that the phrase "cost of any dormitory," as used in Section 3 of House Bill No. 837 of the 63rd General Assembly, is not limited to the mere physical structure, but is inclusive of necessary operating equipment and furniture.

While we have been unable to find any cases directly holding that the term "dormitory," standing alone, includes within its definition the furniture and other necessary equipment to make it useful for the purpose for which designed, we do believe that such is the logical result to be reached in comparing certain other definitions. For instance, we find the following definitions of "schoolhouse" in 38 Words and Phrases, Perm. Ed., page 321:

"'Schoolhouses,' as used in Comp. St. sec. 1885, providing that the board of school trustees shall have power to build or remove schoolhouses, when directed by a vote of the district to do so, does not mean simply the house, but refers rather to the school, including the general equipment, furniture, maps, charts, globes, and pupils and teacher. State v. Marshall, 32 P. 648, 649, 13 Mont. 136."

"In a statute providing that the school trustees shall have power to remove 'schoolhouses' when directed by a vote of the district, the term 'schoolhouse' does not mean simply the house, but refers rather to the school plant, including the general equipment, furniture, maps, charts, globes, and pupils and teacher. A school board cannot disregard the right of the people to say what shall be done with reference to the permanent location of the school. State ex rel. Bean v. Lyons, 96 P. 922, 923, 925, 37 Mont. 354, quoting and adopting definition in State ex rel. Jay v. Marshall, 32 P. 648, 13 Mont. 136."

Also, the following definition of "building" is found in 5 Words and Phrases, Perm. Ed., page 875:

"Where power is conferred 'to raise the means and erect a new building' for school purposes, it should be held to include the right to procure and pay for ordinary equipment. Board of Commissioners of Buncombe County v. Malone, 101 S. E. 552, 553, 179 N. C. 110."

The cases cited, together with other cases holding that the power to erect a building necessarily carries with it the power to acquire a site therefor, seem to be bottomed upon the proposition that, by implication, power to perform a given act carries with it power to complete such act to the end that the particular subject matter may be a workable whole. With this in mind, and in the light of the declared purposes which have led to the enactment of House Bills Nos. 837 and 932 of the 63rd General Assembly, we believe the conclusion is inescapable that the Legislature used the term "dormitory," in Section 3 of House Bill No. 837, in the sense that there was included in the definition thereof, not only the physical structure, but the land, the building and the necessary equipment to make the entire unit suitable for the purpose for which designed.

Since commencing the preparation of this opinion, we understand that the following question has been presented by the Board of Regents of the Northeast Missouri State College:

"May the state funds appropriated under House Bill No. 837 of the 63rd General Assembly be used for the purchase of building sites, or portions thereof, upon which dormitories are to be erected?"

Section 1 of House Bill No. 837 of the 63rd General Assembly reads, in part, as follows:

"There is hereby appropriated out of the Missouri Post War Reserve Fund the sum of Five Million, Three Hundred Sixty-six Thousand, Seven Hundred Fifty Dollars (\$5,366,750.00) for the purpose of building or purchasing or reconstructing buildings for dormitory buildings with or without dining room facilities as an integral part thereof or dining room facilities alone, or any combination of dormitory and

dining room facilities and one or more social or recreational buildings, or any combination of dormitory, dining room, social and recreational facilities, including land, equipment, and furniture, at the * * * Northeast Missouri State Teachers College, * * *

This, then, seems to be clear legislative authority for the use of state appropriated funds for the purpose of acquiring land to be used as sites for the construction of dormitories.

CONCLUSION

In the premises, we are of the opinion that the expenditure of \$266,661.22 made by Central Missouri State College out of the proceeds of the sale of revenue bonds, as authorized by the provisions of House Bill No. 932 of the 63rd General Assembly, and from other non-state appropriated moneys, for the acquisition of an existing dormitory, together with equipment and furniture, as a part of the program of said college under House Bill No. 837 of the 63rd General Assembly, may be considered as matching funds against the appropriation made to said college under the provisions of House Bill No. 837 of the 63rd General Assembly.

We are further of the opinion that moneys appropriated under House Bill No. 837 of the 63rd General Assembly may be expended for the purchase of building sites, or portions thereof, upon which dormitories are to be erected, provided the educational institutions named in the act comply with the further requirements with respect to matching the state appropriated funds.

Respectfully submitted,

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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