

UNIVERSITY: Matching of funds appropriated for construc-
 tion of dormitories.

June 2, 1948

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Mr. Leslie Cowan, Secretary
Board of Curators of the
University of Missouri,
Columbia, Missouri

Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"The Board of Curators of the University of Missouri at its meeting on May 14, 1948, directed that inquiry be made of you as to whether or not the procedure outlined below which the Board proposes to follow in its Dormitory and Student Union Building Program, complies with Section 9.230 of H. B. 445, passed by the 64th General Assembly, which appropriated the sum of \$2,465,000 for the construction of dormitories, dining, and/or recreational facilities on the University grounds at Columbia, and which included a provision that this sum be matched by an equal amount to be provided by the University from sources other than State Appropriations. Section 7.084 of H. B. 453, also passed by the 64th General Assembly, contains provisions identical with those found in Section 9.230 of H. B. 445.

"The Board of Curators proposes to meet the matching requirements of these appropriation acts by the issuance of revenue bonds and by the use of funds in its possession, other than state appropriated moneys.

"I am enclosing a copy of the Resolution of the Board of Curators adopted at its meeting on June 4, 1947, regarding the use of funds of the University of Missouri, other than state

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appropriated moneys, to be used in the financing of the Dormitory, Dining, and/or Recreational Facilities Construction Program. The University funds referred to in the enclosed resolution are to be used in matching state appropriated moneys as provided in the sections of House Bills 445 and 453 referred to above. The exact amount of the bond issue, depending on costs, may be different from the amount of the bond issue mentioned in the resolution but the procedure will be the same as outlined in the resolution.

"Will you please advise me as to whether or not these University funds, if used in the manner outlined in the enclosed resolution, will be regarded as 'matching funds', under the terms of the sections of House Bills 445 and 453 referred to above?

"The Board of Curators will appreciate having your opinion in this matter at your earliest convenience."

Section 9.230 of House Bill 445, 64th General Assembly (Laws 1947, p. 183) appropriated the sums of \$2,456,000 and \$262,500 for the purpose of building or purchasing or reconstructing buildings for dormitories at the University of Missouri and the School of Mines and Metallurgy respectively. Included in the aforesaid act is the following:

"Provided, however, that any funds appropriated under this section shall be expended under the supervision of the administrative boards of the institutions to which the money is appropriated, and such funds shall not 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; and provided further, 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 section shall be considered as matching funds as required in this section; * * *."

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The resolution which you submitted to us, and which was adopted by the Board of Curators on June 4, 1947, contemplates the construction at the University of Missouri of men's and women's dormitories, and the Student Union Building at an estimated cost of \$6,700,000. The resolution recites that revenue bonds in the amount of \$2,235,000 are expected to be issued to provide, in part, matching funds under House Bill 445. In addition, the sum of \$2,000,000 "now held by or due to the University from sources other than state appropriations" is by the resolution set aside to be used in matching the funds appropriated by House Bill 445.

The resolution pertaining to the School of Mines recites that \$300,000 is held by or due to the Board from sources other than state appropriations, and that the issuance of revenue bonds in the amount of \$200,000 is contemplated. It then provides that the aforementioned sum of \$300,000 be set aside as matching funds under House Bill 445.

The minutes do not reveal the source of the sums of \$2,000,000 and \$300,000 to be set aside as matching funds by the University and the School of Mines, except to state that they are from sources other than state appropriations. The minutes do state that the funds had been held in the general maintenance budgets of the respective schools, and that the University's attorney had rendered an opinion to the effect that the Board of Curators had the authority to use such funds for the construction of facilities for students.

Not having seen that opinion, and not knowing the source of the funds in question, other than that they are not state appropriated funds, we are not here passing upon the question of the availability of such funds, but are assuming, for the purposes of this opinion, that they are funds which the Board may use for the purposes in question.

Section 9.230 of House Bill 445 requires that the funds appropriated be equally matched by the proceeds of the revenue bonds or funds other than state appropriated moneys supplied by the respective institutions, or from federal grants made for such purposes. The object of this provision is obvious and its meaning clear, we believe. The sum of \$2,465,000 has been appropriated for the University. A fund of \$2,000,000 has been set aside by the resolution, and upon the issuance and sale of the revenue bonds contemplated by the resolution, the sum of \$4,235,000 will be available, which will more than equal the sum appropriated and required to be matched. For the School of Mines the sum of \$262,500 was appropriated. A sum of \$300,000 has been set aside, and upon the issuance and sale of revenue bonds a total of \$500,000 will be available, which likewise will more than equal the sum appropriated and required to be matched.

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The authority of the Board of Curators to issue revenue bonds for the purposes here involved was established in the case of State ex rel. Curators of the University of Missouri v. McReynolds, 193 S.W. (2d) 611. This authority has now been expressly provided by statute. Laws 1945, p. 1715. The sums of \$2,000,000 and \$300,000, set aside by the resolution submitted, matched the sole requirement of Section 9.230 of House Bill 445, that they be funds other than state appropriated moneys.

CONCLUSION

Therefore, we are of the opinion that, upon the setting aside of the sums referred to in the resolution of the Board of Curators, adopted at the meeting of June 4, 1947, and upon the issuance and sale of the revenue bonds referred to therein, the Board of Curators will have "equally matched" the sums appropriated by Section 9.230 of House Bill 445, 64th General Assembly, for the use of the University of Missouri and the School of Mines and Metallurgy for the construction of dormitory facilities.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
Attorney General