

APPROPRIATIONS: That part of Sec. 3.040 of House Bill No. 449 of the 64th General Assembly appropriating \$100,000 for purchase, installation and operation of equipment necessary to administration of Permanent Registration Law does not authorize payment of any salaries out of such appropriation.

May 24, 1948



Mr. B. H. Howard  
Comptroller  
Department of Revenue  
Jefferson City, Missouri

Dear Sir:

This is in reply to your letter of recent date requesting an official opinion of this department and reading as follows:

"Section 3.040, House Bill 449, 64th General Assembly provides an appropriation for the collection of motor vehicle registration fees, drivers license, and the fuel tax for the period beginning July 1, 1948 and ending June 30, 1949. This appropriation includes the usual items of personal service, additions, repairs and replacements, and operation. However, for the next fiscal year another item has been included which reads as follows:

'For the purchase, installation and operation of equipment necessary to the administration of the Permanent Registration Law .....\$100,000.00'

"We will appreciate an opinion as to whether or not salaries could be charged to this latter appropriation along with other items of expense necessary to the administration of the law."

Section 23 of Article IV of the Constitution of Missouri provides, in part, as follows:

" \* \* \* Every appropriation law shall distinctly specify the amount and purpose of

Mr. B. H. Howard

the appropriation without reference to any other law to fix the amount or purpose."

Section 3.040 of House Bill No. 449 of the 64th General Assembly provides, in subsection A, an appropriation for salaries of various enumerated employees and "all other necessary employees," subsections B and C provide for additions, repairs and replacements, and subsection D provides for operation of the department, and in addition thereto is found the following:

"For the purchase, installation and operation of equipment necessary to the administration of the Permanent Registration Law . . . . . \$100,000.00"

In the case of State v. Weatherby, 129 S. W. (2d) 887, the Supreme Court held that compensation for personal services in rendering official opinions could not be paid by the Attorney General out of the appropriation for "operation." The court said, l. c. 894:

" \* \* \* By distinctly specifying the sums appropriated for enumerated personal services rendered the Legal Department, the General Assembly evidenced an intent within Sec. 19, Art. 10, of our Constitution, Mo. St. Ann., in the enactment of said Sec. 7 not to pay for 'personal service' out of moneys appropriated for 'operation' of the Legal Department."

We believe it to be clear that the use of the word "operation" in the above-quoted provision of Section 3.040 with regard to the administration of the Permanent Registration Law can mean only the general expenses of running such equipment, such as the general expenses enumerated under subsection D of Section 3.040, that is, such expenses as the materials and supplies necessary in using such equipment in order to carry out the Permanent Registration Law of this state. We believe that this conclusion is sustained by the action of the Legislature in providing, in subsection A of Section 3.040, for the payment for personal services of all those employees enumerated and of "all other necessary employees."

#### CONCLUSION

It is the opinion of this department that that part of Section 3.040 appropriating \$100,000 for the purchase installation and operation of equipment necessary to the administration of the

Mr. B. H. Howard

Permanent Registration Law does not authorize the payment out of such appropriation of any salaries.

Respectfully submitted,

C. B. BURNS, Jr.  
Assistant Attorney General

APPROVED:

J. E. TAYLOR  
Attorney General