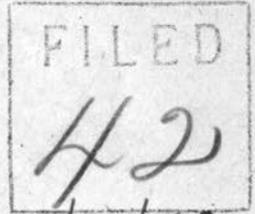


APPROPRIATIONS: Attorney fee paid in connection with issuance of revenue bonds not "matching funds" within the meaning of an act found Laws of 1945, page 397, and an act found Laws of 1947, Vol. I, page 175, December 9, 1948

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



12/10/48

Dear Sir:

Reference is made to your request for an official opinion of this office, reading as follows:

"The Northeast Missouri State Teachers College has requested that attorney fees paid in connection with issuance of dormitory revenue bonds be considered as a cost of construction of the building, so that the fees may be included in the total to be matched by the State of Missouri.

"Before answering the request we would appreciate an opinion from your office as to the validity of considering such fees as a cost of the building.

"We are enclosing a letter from Mr. Roland A. Zeigel, Secretary of the Board of Regents, which outlines their reasons for making the request."

The question presented arises by virtue of the enactment of an act found Laws of Missouri, 1945, page 397, and Section 9.230 of an act found Laws of Missouri, 1947, Vol. I, page 175. These are appropriation bills setting aside state funds to be used in assisting various educational institutions of the State of Missouri in the construction and equipping of dormitories, recreational and social buildings, etc. Section 3 of the first act mentioned reads as follows:

"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."

A portion of the second act mentioned reads as follows:

"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; * * * * *"

(Underscoring ours.)

Section 655, R. S. Mo. 1939, providing rules for the construction of statutes of this state, provides in part as follows:

"The construction of all statutes of this state shall be by the following additional rules, unless such construction be plainly repugnant to the intent of the legislature, or of the context of the same statute: First, words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import; * * * * *

We believe that the phraseology contained in the appropriation bills, when construed in accordance with this rule,

clearly indicates that it was the intent of the legislature to authorize the disbursements of the moneys provided therein only upon the various institutions actually and in fact expending funds from the other enumerated sources in an equal amount for the purposes of the appropriation. In other words, we do not believe that such moneys may be disbursed in erecting new buildings unless a similar amount of money is so provided by such institutions. The fact that the expense incurred in obtaining the opinion of counsel indirectly was instrumental in procuring funds for such usage does not affect the matter. It is our thought that only such proceeds arising from the sale of the bonds as was or may be directly spent for the purpose of the construction program may be treated as "matching funds" within the meaning of the appropriation bills. To hold otherwise would authorize the disbursement of such moneys upon payments made by the various institutions for all of its operating expenses, inasmuch as all of such expenses indirectly, and to some extent, do assist in providing funds from which the schools may make payments toward the cost of such buildings.

CONCLUSION

In the premises, we are of the opinion that money expended by an educational institution for counsel fees for an opinion respecting the validity of revenue bonds may not be treated as "matching funds" nor part of the "cost of building" within the meaning of an act found Laws of Missouri, 1945, page 397, and a further act found Laws of Missouri, 1947, Vol. I, page 175.

Respectfully submitted,

WILL F. BERRY, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General *JTB*

WFB:VLM