

OPINION
43-19

August 17, 1943 (OPINION)

APPROPRIATIONS

RE: Commissioner of Agriculture and Labor

Your letter of August 16th has been received and contents of same have been noted.

You inquire whether or not the items in the appropriation made by Chapter 2 of the Session Laws of 1943 are subject to the provisions of chapter 22 of the Session Laws of 1941, which provides that seventy-five percent of the appropriations made for the biennium shall become available on the first day of July of each year, and the remaining twenty-five percent shall be available only at the beginning of the fourth quarter of the biennium.

In order to answer this question it will be necessary to ascertain the purpose and object of said chapter 2 mentioned in your letter.

This chapter is an amendment of the Livestock Brand Law as amended by chapter 8 of the Session Laws of 1933, and provides in substance as follows:

1. That on the first day of January, 1944, each and every livestock brand or mark shall be cancelled by the Commissioner of Agriculture and Labor.
2. It requires the Commissioner of Agriculture and Labor to notify on or before August 1, 1943 * * * each and every record owner of livestock brand or mark of the final date set for cancellation and their right to re-record previously recorded brands or marks. Such notice shall be given in writing, legibly written, sent by ordinary first-class mail and addressed to the record owner at the address as shown upon the present records.
3. It requires the Commissioner of Agriculture and Labor to public in each official newspaper in every county where brands or marks are in use, a notice of the expiration of the time fixed by law for the re-recording of livestock brands or marks. Such publication shall begin on or about the first of September, 1943. * * *.
4. The Commissioner of Agriculture and Labor is directed and authorized to compile and issue a brand book from the records of livestock brands in his office as of January first, 1944, and to deliver

free of charge a copy of such brand book to every registered owner of brands at the time of the issuance of certificates of registration or re-registration; and annually thereafter the Commissioner of Agriculture and Labor is required to prepare a supplement of brands registered and distribute the same free of charge to brand owners.

It will thus be seen that under the provisions of the Act the Commissioner of Agriculture and Labor is required to perform the several acts enumerated therein on or before or as of January first, 1944.

The Act carries an appropriation for the following items:

Clerk hire	\$4,800.0
Postage	640.0
Publication of notices	260.0
Stationery	150.0
Application blanks	250.0
Files	100.0
Miscellaneous	800.0
Publication of brand books, printing paper, and other materials necessary in preparation and publication of same	5,600.0
making a total appropriation of	\$12,600.00.

Since the law fixes the time when the duties prescribed in said Act are to be performed, all of which duties are to be performed not later than on or before January first, 1944, it necessarily follows that the several items in the appropriation were intended to be available for the purpose of defraying expenses in connection therewith. It should be noted that it is mandatory upon the Commissioner, for instance to send out notices to all registered brand owners by the first of August, 1943, by first-class mail; also it is his duty to publish in the official newspapers in every county where brands or marks are now used, a notice of the expiration of the time fixed by law for re-recording, and such publication must be on or about the first day of September, 1943.

The Commissioner is also directed and authorized to compile and issue the brand books as of January first, 1944. Whenever these acts are performed, the cost of same must be paid and it was not intended that only three-fourths of same should be paid and the balance paid in the fourth quarter of the biennium. This must necessarily be so, since the time when such work is to be performed is fixed by the Act. The livestock committee which sponsored this law consulted with the writer of this opinion who drew the bill and therefore, is somewhat familiar with the intent and purpose of the members of the committee, which intent and purpose I have stated herein.

It should be borne in mind that this Act in no way interferes with the regular registration of livestock brands, which is a part of the general duties of the office of the Commissioner of

Agriculture and Labor. The purpose of chapter 2 was simply to revise the brand law and bring the records and registration of brands down to date and on a workable basis.

I am of the opinion, therefore, that the items in the appropriation are not subject to the provisions of chapter 22 of the Session Laws of 1941, but that the said items may be disbursed whenever the work for which they were appropriated has been performed and approved by the Commissioner of Agriculture and Labor.

ALVIN C. STRUTZ
Attorney General