

OPINION
43-26

May 14, 1943 (OPINION)

APPROPRIATIONS

RE: Must be used for purpose designated

I have your letter of May 8th requesting my opinion on the matter of whether expenditure of appropriations for bills incurred during the present biennium, but paid after the biennium has ended, must be made in accordance with the items making up such appropriations, or whether all balances left in any items of an appropriation can be lumped into one fund and designated as "Prior," and be used to pay any bills incurred in the present biennium, regardless of the purpose for which such appropriation was originally made. In other words, you want to know whether, for example, surpluses remaining in the appropriation for "clerk hire", "postage", "supplies", "furnitures and fixtures", "printing", "travelling expenses", etc. for any given department can all be placed in "prior" at the end of the present biennium and used to pay a bill for furniture purchased during this biennium.

Section 2 of chapter 29 of the 1941 Session Laws, which is the general appropriation bill for the present biennium, provides that "unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1st, 1941, and ending June 30th, 1943." This clearly is an indication on the part of the assembly that the monies appropriated for the various purposes are to be used for such purposes. Section 283c2 of the 1925 Supplement provides for a method of transferring funds from one item to another. That section provides, in part:

"Whenever it shall be made to appear to the emergency commission by an itemized, verified petition of any board of control, board of regents, commission or officer authorized to expend public funds that an emergency exists, the emergency commission shall assume that an emergency exists demanding such action and may order money transferred from one fund to another fund belonging to or appropriated for the same institution, or board, or the same state enterprise, . . ."

The same section then goes on to provide:

"And in no event shall it be within the authority of the emergency commission to increase the amounts to be expended for any specific purpose by more than ten percent, and this shall only be done to meet a deficiency arising in an attempt to carry out the purpose of the appropriation."

Had the Legislative Assembly not intended that all appropriations should be used for the purpose for which each item was appropriated, the enactment of those portions of section 283c2, quoted above, would not have been necessary. If monies cannot be transferred from one fund to another without specific authorization, and then only in a limited amount, such monies clearly cannot be lumped together at the end of the biennium, and used for any purpose whatsoever. In our opinion, such monies as remain in "prior" at the end of the biennium, must be used for the purpose for which each item was appropriated.

You also inquire whether you should carry such funds as remain in each appropriation, on your books item by item, or whether you should lump them all as "prior". That, of course, is a matter of bookkeeping and is not a legal question. It would seem to us, however, that the work of keeping track of the unexpended balances in the various funds making up the appropriation would be much simplified, if each item were kept separate. That, however, would be a matter for your office to determine.

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Attorney General