

Opinion No. 89.

Appropriations for Operation—Expenses, Traveling—Federal Apprentice Training Service—State Apprenticeship Council.

Held: The Montana State Apprenticeship Council may, in the exercise of its sound discretion, le-

gally pay a portion or the whole of traveling expenses incurred by the Federal Apprenticeship Training Service field representative when such traveling is solely within the State of Montana, and the services of such representative come within the provisions of Chapter 149, Laws of 1941.

November 1, 1945.

Mr. Albert H. Kruse, Commissioner
Department of Agriculture, Labor
and Industry
State Capitol
Helena, Montana

Dear Mr. Kruse:

You have requested my opinion asking if the State Apprenticeship Council may pay from its legislative appropriation for "Operation" all or part of the traveling expenses of the Federal Apprenticeship Training Service field representative stationed in Montana.

You have advised me that the duties of this field representative consist mainly in working in coordination with the federal and state service in establishing standards of apprentice training in conformity with the state and federal apprenticeship laws. The federal government pays the entire salary and expenses of the field representative to the extent that federal funds are available. There is no field representative under the state service, and it is only because of a lack of federal funds that it is desired to make the payments herein referred to.

Chapter 149, Laws of 1941, creates and establishes the Montana State Apprenticeship Council consisting of three representatives each from employer and employee organizations, and certain ex-officio members. The act defines the term of office of the members and their duties. There is no provision in the act for compensation to the members of the commission nor is any provision made in the act for the employment of any personnel.

By House Bill 325, Laws of 1945, the general appropriation bill for state departments, boards, bureaus, commissions and institutions, the legislature appropriated the sum of \$1,000.00 for each biennium to the Apprenticeship Council for "Operation." This bill defines the term "Operation" as follows:

"The term 'operation' means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature."

It will, thus, be seen that while the legislature has imposed upon the council definite duties and responsibilities and made an appropriation to pay for "operation of the commission," it made no specific provision as to how such duties should be performed and the expenses thereof paid for.

The Supreme Court in the case of *Guillot v. State Highway Commission, et al.*, 102 Mont. 149, 158, 56 Pac. (2d) 1072, said:

"Where the legislature sees fit to confer upon a board or commission such broad general powers, the repository of the power is vested with discretion in choosing the means and methods of accomplishing the result expected, and, in the absence of fraud or manifest abuse of that discretion, its determination is conclusive."

See also the cases of *State ex rel. Pew v. Porter*, 57 Mont. 535, 189 Pac. 618; *State ex rel. Piggott v. Porter*, 57 Mont. 539, 189 Pac. 619.

It is therefore my opinion that the Montana State Apprenticeship Council may, in the exercise of its sound discretion, legally pay a portion or the whole of traveling expenses incurred by the Federal Apprenticeship Training Service field representative when such traveling is solely within the State of Montana, and the services of such representative come within the provisions of Chapter 149, Laws of 1941.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General