

State Grain Inspector, Fund Liable for expenses and salaries of.

The expenses of the State Grain Inspection Department are to be paid from the Grain Inspection Fund created by Senate Bill No. 89 of the Fourteenth Legislative Assembly, so far as the same are sufficient.

April 14, 1915.

Hon. William Keating.
State Auditor,
Helena, Montana.

Dear Sir:

I have your communication under date the 12th instant, calling my attention to the fact that the general appropriation bill passed by the recent legislature, appropriated for the salary of chief grain inspector, the sum of \$3,000 per year; the salary of chief clerk of this

department, \$1,500 per year; the salary of the inspector, \$1,500 per year, and for fees and traveling expense, \$2,500 per year, and that the same legislature by Senate Bill No. 89, being an Act relating to the department of grain inspection, created a fund to be known as the "Grain Inspection Fund." You now ask whether the salaries and expenses of this department must be charged to this fund instead of the appropriations made by House Bill No. 312. So much of Senate Bill No. 89 as is important here is as follows:

"Section 42. A fund is hereby established, to be known as the Grain Inspection Fund, which fund shall be credited by the State Treasurer with all moneys deposited by the State Grain Inspection Department, as in this Act provided, and all salaries and expense of the department, authorized by law, shall be paid out of and charged to the said Grain Inspection fund. The State Treasurer is hereby authorized to transfer to the Grain Inspection Fund any funds in the state treasury available for the use of the department at the time this Act may become effective. If, in the opinion of the Governor, the Grain Inspection fund is larger than is necessary to properly conduct the work of the department, the fees or charges shall be reduced, at the time and in the manner provided for in this Act.

In like manner the fees or charges may be increased, within the limit named in this Act, if deemed advisable by the Governor for the proper enforcement of this Act."

It seems quite apparent from a reading of this Section of the law, that the legislature intended that the expenses of the State Grain Inspection Department should be taken care of by the industry which it serves. The contribution of this fund arises through the various fees and charges which the Grain Inspection Department is authorized to make and charge. The legislature even went so far as to put in a provision that these fees might be lowered or raised, so that the income of the fund would be commensurate with the needs of the department. These fees when collected must be paid into the treasury and kept there. Neither the State Grain Inspection Department, or the State Treasurer could do anything else than place them in the fund indicated. To hold that these fees must be collected and paid in, but that they must not be used to pay the expense of the department, because the legislature made an appropriation in the general appropriation bill to cover the expenses of the department would make a rather anomalous condition. The fund would accumulate without serving any purpose whatsoever. It is hardly to be presumed that the legislature intended any result of this kind, but on the other hand, that the appropriation in the general appropriation bill for the support of this department was an inadvertence.

I am, therefore, of the opinion that the salaries and expenses of the State Grain Inspection Department should be paid out of the fund created by the legislature for this purpose.

Yours very truly,

D. M. KELLY,

Attorney General.