

**Appropriations—State Board of Examiners—Funds—
State Board of Railroad Commissioners—Transfers.**

No specific appropriation having been made for the payment of salaries and travel expense of the board of railroad commissioners the state board of examiners has no authority to transfer money from the fund appropriated by the legislature for the oil and gas division of the board of railroad commissioners for this purpose.

George P. Porter, Esq.,
State Auditor,
Helena, Montana.

April 25, 1927.

My dear Mr. Porter:

You have requested my opinion on the following question: Has the state board of examiners authority to transfer part of the money appropriated under house bill 322 for the administration of the oil and gas division of the board of railroad commissioners to the board of railroad commissioners as shown by journal voucher no. 376229, as follows: board of railroad commissioners, other salaries, \$1,500; board of railroad commissioners, traveling expenses, \$2,250?

From the statements contained in your letter it appears that under the agreement between the board of railroad commissioners the state board of examiners and the oil men of the state of Montana, the board of railroad commissioners agreed to carry on the work of conservation in the oil and gas fields for the period beginning July 1, 1926, and ending January 1, 1927; that because of the extra expense of carrying out this agreement the appropriation made by the nineteenth legislative assembly for the board of railroad commissioners was found to be insufficient and the sum of \$3,750 was transferred by the state board of examiners from

the appropriation made by the twentieth legislative session under house bill No. 322 for the purpose of making up this deficiency.

Section 10 of article XII of the constitution of Montana provides in part:

“No money shall be drawn from the treasury but in pursuance of specific appropriations made by law.”

House bill 322 is entitled: “An act appropriating the sum of \$11,000, or so much thereof as may be necessary, for the administration of the oil and gas division of the board of railroad commissioners of the State of Montana, and the supervision of the drilling, blocking and abandonment of oil and gas wells in the State of Montana, up to July 1, 1927, and declaring an emergency and making this appropriation immediately available.”

There is no appropriation made by the bill in question for salaries or traveling expenses of the board of railroad commissioners, nor is there any provision therein authorizing the state board of examiners to transfer any of the appropriation to the board of railroad commissioners. It is therefore apparent that no specific appropriation has ever been made for the purpose of paying the deficiency suffered by the board of railroad commissioners by reason of the duties assumed by that board under the agreement above mentioned.

An analogous situation was presented to the supreme court of Indiana in the case of *State v. Porter*, 89 Ind. 260, and that court held:

“An act making a specific appropriation for the completion and furnishing of a particular department of an insane hospital, and for the construction of certain outhouses, makes appropriations for future purposes, and the money so appropriated cannot be diverted from such purposes and applied to the payment of an antecedent indebtedness of the hospital.”

It is therefore my opinion that no specific appropriation having been made for the purpose of taking care of the deficiency suffered by the board of railroad commissioners by virtue of their assuming additional duties above mentioned, that the state board of examiners has no authority to appropriate or transfer any money from the appropriation provided for in house bill 322 to take care of this deficiency.

Very truly yours,

L. A. FOOT,
Attorney General.