

Opinion No. 441**Liquor Control Board—Funds—Contingent Revolving Fund.**

HELD: Section 195, R. C. M. 1921, authorizing contingent revolving accounts, furnishes a definite rule of procedure for expending funds under the Liquor Control Act.

Detailed procedure for establishing such Contingent Revolving Fund and for making expenditures therefrom is set forth.

February 3, 1934.

Chapter 105, Laws of Montana, 1933, is an Act which creates the Montana Liquor Control Board and provides for the establishment of State Liquor Stores and for the maintenance of such stores and the sale of liquor therein. It differs from the other activities of the State in that, under the terms of this Act, the State of Montana engages in an extensive and private business.

Section 94 of the Act provides:

"All moneys received from the sale of liquor at the State Liquor Stores or from license fees or taxes or otherwise, arising in the administration of this Act, shall be paid to the Board, and the Board is hereby authorized to make such expenditures from such fund as from time to time becomes necessary in the administration of this Act, including in such expenditures all salaries, expenses of officers, agents and employees, and all proper expenditures incurred in acquiring property and merchandise in connection with the administration of this Act."

This opinion is written to explain more in detail the method to be followed in the expenditure of funds, making purchases, and payments by the State Liquor Control Board.

"They (the Governor, Secretary of State and Attorney General) shall constitute a Board of Examiners with power to examine all claims against the State except salaries or compensation of officers fixed by law." (Constitution, Article VII, Section 20.)

"No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof, except interest on the public debt." (Constitution, Article V, Section 34.)

Since 1921 there has existed in this State a statute in relation to contingent revolving accounts, which provides: "The State Board of Examiners may in its discretion, by resolution duly adopted and entered upon the minutes of said Board, authorize the establishment and maintenance at any and all of the state institutions, or in any of the departments boards or commissions, of Montana of contingent revolving accounts, transferring in trust to the business offices of said institutions such sums of money as may appear necessary, to be used by said institutions for the payment of demands requiring immediate cash payment, under specific regulations to be established by said Board of Examiners. But each and every state institution granted a contingent revolving account shall report to the State Board of Examiners monthly all transactions involving such contingent re-

volving accounts, with proper vouchers for every payment made therefrom. The State Board of Examiners may cancel such authorizations and recall such funds at pleasure." (R. C. M., 1921, Section 195.)

The provisions of this statute are not inconsistent with Section 94 of Chapter 105, Laws of 1933. In fact, the statute furnishes a definite rule of procedure as to the method of expending funds under the Liquor Control Act.

Under the provisions of Section 195 a resolution creating such revolving contingent fund has already been adopted. The Board of Examiners should provide regulations properly safeguarding the expenditures of the Liquor Control Board. All claims are finally audited by the State Board of Examiners; all payments are made after a warrant has been drawn. The procedure complies with the constitutional requirements.

The resolution of the Board of Examiners should be amended to provide that a definite and specified amount be set aside as a contingent revolving fund. The Board of Examiners should authorize such claim and direct the Auditor to draw a warrant to establish such fund. From time to time, as a claim is presented with proper vouchers attached, the Board of Examiners should approve such claim and the Auditor should issue his warrant for same to replenish the contingent revolving fund from the Liquor Fund.

House Bill No. 31 of the Extraordinary Session of 1933, appropriates \$100,000 for the establishment, stocking and operating of the State Liquor Stores. This appropriation was provided by the Legislature to equip the stores and operate same until such time as the revenue from the sale of liquor would provide necessary funds for operation. The Appropriation Act further states that before any revenue is to be distributed the \$100,000 appropriated must be returned to the general fund.