

No. 12

**FISH AND GAME—APPROPRIATIONS—PURCHASING  
DEPARTMENT—FEDERAL FUNDS—PITTMAN-  
ROBERTSON ACT**

**Held:** Where State Purchasing Department performs administrative functions for Fish and Game Department, appropriations to Purchasing Department from Fish and Game Fund to extent not in excess of value of such services does not conflict with provisions of Pittman-Robertson Act providing Federal Funds for wildlife projects.

January 30, 1941.

Mr. J. E. Henry  
State Purchasing Agent  
State Capitol  
Helena, Montana

Dear Mr. Henry:

This will acknowledge receipt of your letter of January 29, 1941, in which you request the opinion of this office in regard to the following matter:

"In our request for an appropriation, we ask the amount of \$1,000.00 be appropriated from the Fish and Game Fund toward some of the work we do for that department.

"The Fish and Game Department has apparently taken the stand that such an appropriation would endanger funds received by them under the Pittman-Robertson Act from the Federal Government. Our budget is made up of funds appropriated from the Millage Fund, the Highway Fund, the Fish and Game Fund, and the General Fund. The Highway Department partakes of Federal Funds and such a question has never been raised by them.

"Would you please give us an opinion as to whether any appropriation from the Fish and Game Fund itself would in any way endanger the Fish and Game Department from receiving funds from the Federal Government under the Pittman-Robertson Act? Since the Appropriation Committee is acting on our budget, we would greatly appreciate an immediate reply."

A State, to avail itself of the funds provided by the Act of Congress (approved September 2, 1937, c. 899, 50 Stat. 917) commonly known as the Pittman-Robertson Act, must, under Section 1 of this Act, assent to the provision or to the provisions of the Act and "shall have passed laws for the conservation of wildlife which shall include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of said State Fish and Game Department . . . ." Succinctly stated, **license fees** paid by **hunters** must be used for administration of the State Fish and Game Department and no other purpose.

From your statement, we assume that the one thousand dollar appropriation which your Department seeks from the Fish and Game Fund is to be used to pay for part of the work which your Department does for the Fish and Game Department and that such work consists only of administrative functions. If this is the case, it would be permissible to appropriate such sum in the manner you have requested.

If, however, the work done by your Department for the Fish and Game Department can, in any respect, be classed as non-administrative in character, it would still be permissible to appropriate such sum out of the Fish and Game Fund with the proviso that "such appropriation shall be out of any collected or acquired funds coming into the Fish and Game Fund, excluding license fees paid by hunters."

It should be noted that this State has not, as yet, seen fit to avail itself of the Federal Funds available under the Act, in that no legislation has been enacted, which is required as a condition precedent to obtaining these funds.

Sincerely yours,

JOHN W. BONNER  
Attorney General