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EXPENDITURE FOR MEMBERSHIP IN AMERICAN PUBLIC WELFARE ASSOCIATION NOT SUBJECT TO PROVISIONS OF SECTION 18 OF AM. SUB. H. B. 390 OF 104TH G. A. REQUIRING THAT IF AN EXPENDITURE IN EXCESS OF \$1,000 IS FOR LABOR AND MATERIALS FURNISHED, OR COMMODITIES PURCHASED, IT MUST BE PURSUANT TO COMPETITIVE BIDDING, OR IN THE ALTERNATIVE, AUTHORIZED BY CONTROLLING BOARD—AM. SUB. H. B. 390 OF 104TH G. A.

SYLLABUS:

An expenditure by the Department of Welfare for membership in the American Public Welfare Association is not subject to the provision of Section 18 of Amended Substitute House Bill No. 390 of the 104th General Assembly requiring that if an expenditure in excess of \$1,000 is for labor and materials furnished, or for commodities purchased, it must be pursuant to competitive bidding or, in the alternative, authorized by the controlling board.

Columbus, Ohio, July 27, 1961

Mary Gorman, Director
Department of Public Welfare, Columbus 15, Ohio

Dear Madam:

Your request for my opinion reads as follows:

“We request your informal opinion on the following matter at your earliest convenience. The problem is as follows:

“For years the Department of Public Welfare has held an agency membership in the American Public Welfare Association. Three separate divisional accounts have been affected in the Department, the Administrative Division, the Division of Aid for the Aged, and the Division of Social Administration. Each amount paid to the American Public Welfare Association from each division has totalled less than \$1,000. The total for the Department, however, exceeds \$1,000, and the Auditor of State has advised that since the total amount is in excess of \$1,000, authorization for payment must be requested of the State Controlling Board under Section 18 of Amended Sub. H. B. 831. The question therefore is, does Section 18 of the Amended Sub. H. B. 831 apply?”

Amended Substitute House Bill No. 831 of the 103rd General Assembly, to which you refer, made general appropriations for the biennium of 1959-60, 1960-61. The provisions of that bill were effective only to July 1, 1961, thus Section 18 of that bill is no longer in effect.

I note, however, that Section 18 of Amended Substitute House Bill No. 390 of the 104th General Assembly, now in effect, is identical with Section 18 of Amended Substitute House Bill No. 831, *supra*, and I will consider your question on that language.

Section 18 of Amended Substitute House Bill No. 390, *supra*, reads in part.

“If any order or invoice drawn against any appropriation or rotary fund herein made is *for labor and materials furnished*, the aggregate amount of which exceeds one thousand dollars (\$1,000), *or for commodities purchased*, at a cost in excess of one thousand dollars (\$1,000.), it shall show that the same was furnished or purchased pursuant to competitive bidding and the lowest or best bidder was awarded the contract, unless the controlling board shall have authorized the furnishing of such labor or material or the purchase of such commodities without competitive bidding, provided, however, that the controlling board shall authorize the furnishing of such labor or material or the purchase of such commodities only after it has determined that an emergency exists requiring such action. Nothing herein shall be construed as a limitation upon the authority of the director of highways as granted in section 5525.14 of the Revised Code.

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(Emphasis added)

It does not appear that the expenditure for agency membership in the American Public Welfare Association is an expenditure for labor and materials or for commodities. Said association is a group made up of welfare agencies throughout the nation, which agencies have united to pool their knowledge of welfare problems so as to make such knowledge available to all; and the association does not furnish labor, materials, or commodities to the Ohio Department of Welfare.

Further evidence that Section 18 does not apply to the expenditure in question is the fact that, under that section, expenditures in excess of \$1,000 must be pursuant to competitive bidding or, in the alternative, authorized by the controlling board. It appears obvious that the expenditure for membership in the association could not be subject to competitive bidding.

Accordingly, it is my opinion and you are advised that an expenditure by the Department of Welfare for membership in the American Public Welfare Association is not subject to the provision of Section 18 of Amended Substitute House Bill No. 390 of the 104th General Assembly requiring that if an expenditure in excess of \$1,000 is for labor and materials furnished, or for commodities purchased, it must be pursuant to competitive bidding or, in the alternative, authorized by the controlling board.

Respectfully,
MARK McELROY
Attorney General