

Upon examination of this lease, which is one executed by you under the authority of the DeArmond Act, so-called, 114 O. L., 546, I find that the same has been executed by you in your official capacity above stated and by Charles F. Duffy, the lessee therein named, in the manner provided by law. Assuming, as I do, that the parcel of canal land above described has not been designated by the Director of the Department of Highways for state highway purposes, and that no application of the lease of this property for park purposes has been made by any political subdivision entitled to the lease of the property for such purposes, I find that the provisions of this lease and the conditions and restrictions therein contained are in conformity with the act of the legislature above referred to and with other statutory provisions relating to leases of this kind. I am, accordingly, approving this lease and I am herewith returning the same with my approval endorsed thereon and upon the duplicate and triplicate copies which are likewise herewith enclosed.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

3067.

APPROPRIATION—HOUSE BILL 837—FEDERAL FUNDS—
OLD AGE PENSION—SEPARATE AND ADDITIONAL
TO APPROPRIATION OF STATE FUNDS—ADMINI-
STRATION COST.

SYLLABUS:

The appropriation contained in House Bill No. 837 of federal funds for the purpose of administering the old age pension law is separate from and additional to the appropriation of the state funds contained in such act for such administration cost.

COLUMBUS, OHIO, October 10, 1938.

HON. WRAY BEVENS, *Chief, Division of Aid for the Aged, Columbus, Ohio.*

DEAR SIR: Your letter of recent date is as follows:

“We request your formal written opinion in interpretation of House Bill No. 1, as amended by H. B. No. 837.

What we desire to know is whether or not the funds stipulated in numerical amounts as provided in Paragraph b of H. B. No. 1 and Paragraph c of Amended H. B. No. 837

are augmented by the amounts provided in Paragraph d of H. B. No. 1 and Paragraph e of H. B. No. 837, to be paid into the state treasury by the Federal Government.

It is our understanding that the amounts set forth for personal service and maintenance for the Division and the Auditor of State are appropriated from the Gallonage Tax as the state's share of administration and auditing; and that the money paid into the treasury by the Federal Government for the purpose of administration is an additional appropriation for administration by the Division."

It is unnecessary to consider the provisions of House Bill No. 1, passed January 5, 1937, being an act to make appropriations for the purpose of paying old age pensions and administering the law therefor for the current biennium, for the reason that such act was amended and supplemented and superseded by House Bill No. 837, passed February 28, 1938, and approved by the Governor March 14, 1938. Such House Bill No. 837 reenacts verbatim the provisions of House Bill No. 1 and contains an additional paragraph appropriating funds collected from recipients of aid as reimbursements collected by your Division under Sections 1359-1, et seq., of the General Code. Such new matter has no bearing upon the question which you raise and needs no further comment.

House Bill No. 837 contains specific appropriations in paragraphs (a) to (e) thereof. Paragraph (b) of such act appropriates the proceeds of state taxation as follows:

"For the purpose of paying old age pensions and for the administration thereof, a sum equal to \$1.00 for each gallon of spirituous liquor sold by the department of liquor control during the years 1937 and 1938, and paid into the general revenue fund, under the provisions of Section 6064-10 of the General Code."

It is clear that the appropriation contained in the foregoing paragraph of one dollar for each gallon of spirituous liquor sold by the Department of Liquor Control is for the purpose of paying old age pensions and also for administration of the old age pension law. The following paragraph of the act appropriates "from the amount available under paragraph (b) of this section, for administrative purposes," the fixed amounts specified for personal service and maintenance of your Division and for the Auditor of State. These specific items appropriated for administrative cost are made, as stated by the General Assembly, from state revenues available under Section (b), supra.

Sections (d) and (e) are clearly appropriations of federal moneys paid into the state treasury during the current biennium under the federal Social Security Act. Paragraph (d) appropriates such federal moneys as are required by such act "to be used exclusively as old age assistance" for the purpose of paying old age pensions only. It is obvious that this appropriation is an appropriation in addition to that theretofore contained in the act with respect to state funds.

Paragraph (e) of such act appropriates federal funds as follows:

"For the purpose of paying the cost of administering the act providing for payment of aid to the aged, a sum equal to the aggregate amount of all moneys paid prior to January 1, 1939, into the state treasury to the credit of the general revenue fund by the secretary of the treasury of the United States, through the division of disbursements of the treasury department of the United States, and available for paying the cost of administering old age assistance, pursuant to said act of congress."

It is, in my opinion, perfectly apparent that the appropriation contained in paragraph (e), supra, for the purpose of paying administration costs, being an appropriation of federal funds such as are under the federal Social Security Act available for paying the cost of administering old age assistance, cannot be other than a separate and distinct appropriation from that contained in paragraph (c) which is, as above noted, an appropriation for administration costs not of federal funds but of state funds. Your question is accordingly answered in the affirmative.

Respectfully,

HERBERT S. DUFFY,

Attorney General.