

January 20, 1955

Opinion No. 55-8-ESC

Mr. Bruce Parkinson
Unemployment Compensation Director
Employment Security Commission
Phoenix, Arizona

Re: Legal Authority to Withdraw
Trust Funds.

Dear Mr. Parkinson:

You have requested an opinion as to the legal authority of Elmer Vickers, Sr., Gene Bogard, and W. P. Mahoney, as members of the Employment Security Commission of Arizona, to requisition withdrawals from the U. S. Treasury of funds in Arizona's account in the unemployment trust fund. It is our understanding this opinion is required for submission to proper officials of the U. S. Treasury and the Bureau of Employment Security of the Department of Labor.

An examination of the records in the office of the Secretary of State of Arizona shows that each of the above named persons was appointed by the Governor of Arizona to the Employment Security Commission of Arizona for terms beginning January 11, 1955, that such notification of appointment was filed with the Secretary of State on January 14, 1955, and that the three designated Commissioners each executed their oath of office and filed the same with the Secretary of State on January 14, 1955.

Section 12-301, A.C.A. 1939, requires that "before any officer enters upon the duties of his office he must take and subscribe the following oath." Section 12-302 requires that the oath must be taken, subscribed and filed within ten days after notice of the appointment. Section 12-303 requires that official oaths of all state officers be filed and recorded in the office of the Secretary of State.

It appearing that each of the foregoing individuals has fully complied with all requirements of law pursuant to entering upon their duties of office, it is our opinion that each is a duly appointed, qualified, and acting member of the Employment Security Commission of Arizona.

Section 56-1009 (c), A.C.A. 1939, provides, among other things, the following:

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"The commission shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to this state's account therein, as it deems necessary for the payment of such benefits and refunds for a reasonable future period. Such requisitions shall bear the signatures of not less than two members of the commission and the counter signature of the treasurer. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and shall pay warrants for payment of benefits and refunds solely from such benefit account. If the commission believes more efficient administration will result from such practice, it may in turn withdraw from the benefit account certain amounts as it deems necessary for the payment of benefits for a reasonable future period and deposit the same to the account of the commission in a bank or public depository of its choosing and issue checks against the same in payment of benefits to claimants entitled thereto under the law."

Section 56-1011, A.C.A. 1939, specifies the duties and powers of the Employment Security Commission, including the duty to administer the Employment Security Act of which Section 56-1009 is a part. Although authority for delegation of duties in the administration of a law may be inferred to an administrative body, such inference does not arise when there is a specific statutory mandate requiring the performance of specified duties in a specified manner. It is our opinion, therefore, the Commission may not delegate authority to make withdrawals from the unemployment trust fund but must comply with the requirements of Section 56-1009 and that such compliance compels the requisition for withdrawals to be signed by two members of the Commission, together with the counter signature of the State Treasurer.

It is our conclusion that any two of the three named members of the Employment Security Commission have the legal authority to sign requisitions for the withdrawal of funds from the

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Arizona account in the unemployment trust fund established pursuant to Section 904, Title IX, of the Social Security Act, as amended, and that such requisitions bearing such signatures, and only such signatures, may be honored as having been made by individuals duly authorized by the Arizona law to take such action.

Very truly yours,

ROBERT MORRISON
The Attorney General

D. KELLY TURNER
Assistant Attorney General

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