

file

June 7, 1950

Mrs. Ana Frohmler
State Auditor
Capitol Building
Phoenix, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Mrs. Frohmler:

We have your letter of June 3, regarding whether or not the \$25,000 supplemental appropriation made pursuant to Chapter 6, Second Special Session, Laws 1950, is now available to the State Department of Public Welfare for crippled children's services.

Chapter 6 appropriates \$25,000 for the 38th fiscal year, and \$50,000 for the 39th fiscal year, which latter commences July 1, 1950. Your question arises from an apparent ambiguity in the proviso contained in Section 2, which reads:

"In the event federal funds are made available for crippled children's services at any time during the 38th or 39th fiscal years, the amounts appropriated therefor in Section 1 hereof shall be deemed to be the total supplemental appropriation available under this act, and to include all sums paid by the Federal government for such services." (Emphasis supplied)

According to your records, the Federal government did make available the sum of \$29,242.01 during a part of the 38th fiscal year, viz., August 3, 1949 to January 7, 1950, which period had long since passed before the date of the second special session which enacted Chapter 6.

The prime rule of statutory construction is that effect shall be given to the intent or purpose of the Legislature, first as shown unmistakably from the wording of the statute, and second, if the wording is uncertain or ambiguous, then by a determination of the purpose and intent in various other ways. Another equally established rule is that effect will be given to the statute if possible, and any construction which would operate to nullify or defeat the object of the statute should be and is avoided by the courts. These rules are so well established and ratified by decisions of our own Supreme Court that we feel it unnecessary to cite authorities here.

In view of the history of the crippled children's program, involving a controversy between the Federal Security Agency and the State Department, and the publicly announced withdrawal from participation and refusal of the former to contribute federal funds after January, 1950, it cannot be presumed the Legislature would make a supplemental appropriation in approximately the amount

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which the Federal Security Agency would have contributed for the balance of the 38th fiscal year, unless the Legislature intended it for the purpose of continuing the program by state funds. The proviso obviously was inserted to take effect upon the contingency that the FSA, with whom the Department was known to be negotiating for restoration of federal funds, should actually again commence to contribute, during either the balance of the 38th fiscal year or any time during the 39th. Any other interpretation of the language used would ab initio make void and of no effect the supplemental appropriation of \$25,000 for the 38th fiscal year, since more than that amount had already been contributed prior to the time the second special session was called.

In our opinion, it is plain that the Legislature did not intend an absurdity; that it intended a supplemental appropriation of \$75,000 for the crippled children's program should be available, \$25,000 during the balance of the 38th fiscal year, and \$50,000 during the 39th fiscal year; that if the federal agency should at any time after the passage of the act again make contributions for the program, such federal funds should be included in the total \$75,000, reducing the state fund expenditure by the amount of such federal funds.

Since there has been no federal contribution to this program since January 7, 1950, it is our opinion that until and unless the federal agency again contributes, the total amount of \$25,000 in state funds is available for the balance of the 38th fiscal year, and on July 1, 1950 a balance of \$50,000 will be available and will remain so until and unless the federal agency again participates by contributions.

Very truly yours,

FRED O. WILSON
Attorney General

LORNA E. LOCKWOOD
Assistant Attorney General

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