

Wilson
January 4, 1949

Arizona Corporation Commission
Capitol Annex
Phoenix, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Attention: Wilson T. Wright, Chairman

Dear Mr. Wright:

This will acknowledge receipt of your letter of December 27, 1948 asking the opinion of this office on the following:

"The Commission has for a number of years required Fidelity Bonds of certain of its employees, particularly those who have direct responsibilities in the handling of receipts and appropriations.

As has been customary, payment of the premiums for these bonds were made from funds appropriated by the State Legislature to the Commission for Operating Expenses.

It has now come to our attention that the State Auditor will not honor claims for the payment of Bond premiums, except in cases wherein the Statutes specifically provide for the bonding of public officials.

Will you kindly furnish us with an official ruling as to whether the Commission can require certain of our employees to furnish Fidelity Bonds with premiums to be paid from State funds. Your early ruling in this matter will be greatly appreciated."

Your question is whether or not your Commission can require certain of your employees to furnish Fidelity Bonds, and if the premiums of said bonds may be paid from State funds.

In answering your question, we first invite your attention to Section 12-203:

"Officer liable for acts of deputy--Bond of deputy.

Every officer is liable on his official bond for any official negligence or misconduct on the part of any of his deputies, clerks or assistants, and may require an official bond from a deputy appointed by him, in an amount not greater than, and conditioned as, that required of the principal officer. The bonds of deputies, clerks or employees, unless otherwise provided by law, shall be approved by the appointing power."

You will note from the above section that you may require deputies or some of your clerks or employees to give a bond.

We next invite your attention to Section 12-307, A.C.A. 1939, Supplement:

"Premium on bonds public charge.

Whenever a public officer or his deputy or assistant gives bond for the performance of the duties of his office, and the surety of such bond is a corporation, the premium for the writing of such bond shall be a public charge of such officer and shall be paid by the state or county, as the case may be, out of the general fund."

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You will note from the above quoted section that the only premiums that become a public charge on public officers' bonds are a public officer, his deputy, or assistant, and there is no provision in the General Law, supra, where the premiums on the bonds of clerks or employees can become a public charge and be paid out of State funds. However, if, by a specific statute, an employee or clerk is required to be bonded in such a case, it is our opinion that the premiums on such employees' and clerks' bonds are a public charge and should be paid from State funds.

Your very truly,

FRED O. WILSON
Attorney General

MAURICE BARTH
Assistant Attorney General

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