

OPINION
63-226

January 25, 1963 (OPINION)

STATE AUDITING BOARD

RE: Authority

This is in response to your letter of January 23, 1963.

You ask, "I respectfully request your opinion whether or not under the laws of our state the auditing board has the authority to reject and refuse to approve claims against the state presented to the Auditing Board by state departments and agencies."

The powers and duties of the State Auditing Board are enumerated in section 54-14-03 which we quote as follows:

POWERS AND DUTIES OF STATE AUDITING BOARD. The state auditing board shall audit all claims, accounts, bills, or demands against the state, except those of state owned utilities, enterprises, and business projects, and such others are specifically excepted by law. The board, in its discretion, may require the filing of any additional information which it may deem necessary to the proper understanding and audit of any claim, account, bill, or demand against the state. It may require the filing of a sworn statement in such form as it may prescribe." (Emphasis supplied).

The question presented by you is a broad one the answer to which would be indeed difficult unless we break it into two segments. One, may the board refuse approval to an expenditure which on its face is irregular or outside the purpose for which the appropriation was given, and, two, may the board look into the discretion of the department as to the expenditure of its funds for which general appropriation authority exists?

First we think it is necessary to ascertain what the meaning of the word audit implies. Webster's New International Dictionary defines the word as follows: "To examine and adjust, as an account or accounts; to make audit, or official examination, of accounts." From a reading of this explanation we are not readily led to a meaning that would imply any kind of authority but merely an "examination."

From a reading of section 54-14-03 above quoted, we are unable to find any particular type of authority that might be conferred upon the board outside of the function of examination. The underlined portion above confers power on the board to require additional proof if it deems it necessary for a proper understanding of the claim. Notice that there is no direct authority to determine if the claim is warranted. However, we recognize that the board was created for a purpose and to that end it would be our opinion that the board would have implied authority to refuse to accept a claim that was, on its face, outside the scope of the appropriation. On the other hand, we

do not feel that the board is empowered to inquire into the discretion of a department head who has the duty and responsibility to prudently expend the funds appropriated to his department. To say that the board may review the discretion of a department head concerning his purchases would be tantamount to giving the board the power of appropriation; a power that is constitutionally conferred only upon the Legislature.

HELGI JOHANNESON

Attorney General