

**OPINION**  
**43-27**

June 7, 1943           (OPINION)

APPROPRIATIONS

RE: Self-executing

I have your letter of June 5th, requesting an opinion as to whether the increase in salary for State Land Commissioner, which was passed as an emergency measure, became effective upon the signing of same by the Governor. You request that you be advised as to the law, based upon the facts as they appear from the enclosed application by Mr. Swanston.

The act in question is chapter 190 of the 1943 Session Laws, which provides:

"The annual salary for services rendered in his official capacity by the Commissioner of University and School Lands shall be thirty-six hundred dollars (\$3,600.00)."

Article 27 of the Constitution provides that no Act of the Legislative Assembly shall take effect until July 1st, after the close of the session, unless the Legislature by a vote of two thirds of the members present and voting in each House shall declare it an emergency measure, which declaration shall be set forth in the Act itself. This Constitutional provision then goes on to provide: "An emergency measure shall take effect and be in force from and after its passage and approval by the Governor."

The Act was passed by both houses, without a dissenting vote, and was therefore passed as an emergency measure. The Governor approved the Act on the tenth day of March, 1943, and the Act became effective from that date, and the salary therein provided for was payable from the date of such approval.

The question remaining, therefore, is whether there is any money available which can be used for the purpose of paying this increased salary, or whether such increase in salary cannot become effective until the next biennium, which is July 1st. The general rule is that where compensation is fixed by statute and the time of payment is prescribed by law, no special annual appropriation is necessary to justify the payment of such compensation. See 46 C.J. page 1028. The Legislative Assembly could have specifically provided for the payment of this increased salary from and after July 1st. Instead, they provided that the Act should take effect "from and after its passage and approval."

In my opinion, the provisions of this Act are self-executing and this is, in fact, a standing appropriation. However, it might be possible for you to transfer sufficient money from

other funds to the commissioner's salary fund by petitioning the emergency commission for such transfer.

I am returning herewith Mr. Swanston's letter, addressed to the Secretary of State, and also the application for a transfer of funds.

ALVIN C. STRUTZ  
Attorney General