

**OPINION
47-10**

February 15, 1947 (OPINION)

AERONAUTICS

RE: Cities Negotiating for Funds with CAA

You inquire whether under section 6 of Senate Bill No. 40 cities are prohibited from negotiating with the Civil Aeronautics Administration for funds and whether they are prohibited from making application for airport development without first submitting it to the State Aeronautics Commission, or whether the provisions of section 6 of said bill would begin to operate only after the negotiations and application for funds were made and funds pursuant thereto awarded to the municipality. It seems to me that after a careful reading of section 6, the Aeronautics Commission is appointed as agent of the municipalities to receive, accept, receipt for, and disburse federal moneys to finance, in whole or in part, the planning, acquisition, construction, improvement, maintenance or operation of municipal airports or air navigation facilities, and that such agency would result only after a loan or grant had been negotiated and awarded to the municipality.

It is further provided that the Commission shall act as their agent in contracting for and supervising such planning, acquisition, construction, improvement, maintenance or operation. The Commission is further authorized as principal on behalf of the state, and for any municipality to enter into contracts with the United States or with any municipality or any person, which may be required in connection with a grant or loan of federal moneys for airport or air navigation facilities. But this section also enjoins upon the Commission to accept, transfer or expend such funds upon such terms and conditions as are prescribed by the United States. The Commission must deposit the money received in the State Treasury and unless otherwise prescribed by the authority (Civil Aeronautics Administration) shall keep it in a separate fund designated for the purposes for which the money was made available and to hold the same for such purposes. This section also provides that all such moneys are appropriated for the purposes for which the same are made available and are to be disbursed and expended within the terms and conditions under which they were made available.

It seems quite clear from this section that there is nothing for the Commission to accept, receive, receipt for or disburse until the municipality has negotiated by application for funds and until such funds have been allocated to the municipality for the purposes designated in the application. After the funds have been allocated for the purposes set forth in the application for purposes required by the Civil Aeronautics Administration, then section 6 will become operative and the funds must be received, accepted, receipted for and disbursed as provided in section 6 of Senate Bill 40. I do not believe that it was the intention of the Legislative Assembly that the municipalities be deprived of all power of negotiating for such funds nor that they be dependent upon the Civil Aeronautics Commission of this state in the determination of the need for such

money or the uses to which it is to be applied.

It is the opinion of this office that the provisions of section 6 of Senate Bill 40 do not begin to operate until after an application has been made to the Civil Aeronautics Administration of the United States and the municipality has been allotted funds in accordance with its application. Then the provisions of section 6 apply and not until then.

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