

**OPINION
58-254**

July 31, 1958 (OPINION)

STATE GOVERNMENT

RE: Merit System Council - Biennial Report

This is in reply to your letter of July seventeenth in which you ask for an opinion on sections 4 and 5 of Chapter 332 of the 1957 Session Laws. This question deals with what is meant by a biennium report which is required to be submitted under both of the above mentioned sections.

The term "biennium", unless further identified, means merely a period of two years and does not refer to a fiscal or calendar year.

The term as used in section 4 of Chapter 332 of the 1957 Session Laws must be construed in the light of the entire subject matter of the section. This section refers to the requirements of other state agencies by the following language. "The merit system council shall submit a budget to the state budget board in the same manner as other state agencies " This is an obvious reference to section 54-1505 and by referring to this section we find it is based on the fiscal period, July first to July first. The object of the budget report referred to here is to give the budget board a complete picture of the financial transactions and figures during the previous two years and to give a prognosis of the next two years. In other words, to give a complete picture of the contemplated finances needed to operate the system for the next two years. It is recognized that Chapter 332 of the 1957 Session Laws became effective July 1, 1957, and as such your program existed under Chapter 332 only one year as of July 1, 1958. It is equally recognized that the Legislature was aware that the merit council existed and operated for some time without specific state legislation. This is apparent by noting the appropriations made for the merit council program under different departments. The term "any biennium" apparently is taking this into consideration. In the absence of finding any other indications for celebrations it is our conclusion that "any biennium" refers to the two year period proceeding July 1, 1958, and every two years thereafter. In the budget report which must be submitted at the time indicated in section 54-1505 (October 1, 1958) you may explain that you operated under chapter 332 only from and after July 1, 1957. The two year period covered in your report "any biennium" should include the year before the law went into effect. It is presumed that the Legislature in using this term intended it to cover a two year period even though the statute was not in effect for two years, on the basis that the merit council program did exist and operate for a number of years without formal legislation. The budget report should cover the period from July 1, 1956 to July 1, 1958 and the two years in advance. You should include, as you mention in your letter, the year preceding July 1, 1957.

As to the question on Section 5 of Chapter 332 we conclude that the report referred to herein must refer to a report comparable to the

reports submitted to the Governor and other officials by other state departments which report is based on the calendar year. In view of the time in which the report is to be submitted "on or before July first of every even numbered year" it is our conclusion that the report referred to is one covering the calendar year. The time as set out in section 5 when the report is to be submitted is the same in the original bill as it was originally introduced, and is considered as having been set deliberately rather than erroneously. We presume that the Legislature was aware that a report could not be made on a period without giving sufficient time to prepare such report, for example, a report for the period ending June thirtieth could not be submitted on or before July first. The Legislature must have been fully aware of what it demanded from the merit system council program.

We therefore conclude that the report referred to here is one covering the calendar year. This report would cover only a period of one-half year in which the program operated under Chapter 332. However, it is here again understood that the Legislature was aware that the merit council system was operating some time before the specific legislation. In this report you could state the time when this program began operating under the present existing law and make what comments are necessary to explain any variance.

It is therefore recommended that the biennium report include the period January 1, 1956 to January 1, 1958. As stated before biennium means a two year period and as to the beginning and ending of such period we must look to the entire legislation and its references.

The object of both reports is to give an over-all picture of the transactions of the merit system council to the various officers and departments. One report is primarily on finances - receipts, expenditures and contemplated expenditures and receipts - and the other report is on the over-all activities, including finances.

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