

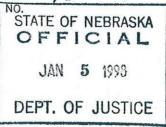
STATE OF NEBRASKA Office of the Attorney General

2115 STATE CAPITOL BUILDING LINCOLN, NE 68509-8920 (402) 471-2682 TDD (402) 471-2682 CAPITOL FAX (402) 471-3297 1235 K ST. FAX (402) 471-4725

DON STENBERG ATTORNEY GENERAL

#98001

STEVE GRASZ LAURIE SMITH CAMP DEPUTY ATTORNEYS GENERAL



DATE: January 5, 1998

SUBJECT:

Whether or not Commission for the Hearing Impaired members are authorized by Neb. Rev. Stat. § 71-4731 to conduct fundraising activities.

REQUESTED BY: Tanya D. Wendell, Executive Director Commission for the Hearing Impaired

WRITTEN BY: Don Stenberg, Attorney General Melanie J. Whittamore-Mantzios, Assistant Attorney General

You have requested an opinion from our office as to whether members of the Commission for the Hearing Impaired (hereinafter referred to as "Commission") would be authorized to conduct fundraising activities pursuant to Neb. Rev. Stat. § 71-4731 (1996). Neb. Rev. Stat. § 71-4731 provides as follows: "[t]he Governor may accept gifts, grants, and donations of money, personal property, and real property for use in expanding and improving services to hearing-impaired persons of this state." It is our position that § 71-4731 does not permit members of the Commission to conduct fundraising activities. The only thing authorized by § 71-4731 is the acceptance of donations by the Governor for the purpose of improving and expanding the services for the hearing impaired persons of Nebraska.

Administrative bodies only have that authority specifically conferred upon them by statute or by construction necessary to achieve the purpose of the relevant act. Southeast Rural Vol. Fire Dept. v. Nebraska Dept. of Revenue, 251 Neb. 852, 560 NW.2d 436

Jay C. Hinsley Amy Hollenbeck William L. Howland Marilyn B. Hutchinson Kimberly A. Klein Jennifer S. Liliedahl Joseph P. Loudon Charles E. Lowe Lisa D. Martin-Price Lynn A. Melson Donald J. B. Miller Ronald D. Moravec Fredrick F. Neid Marie C. Pawol Paul N. Potadle Mark D. Raffety Carla Heathershaw Risko Hobert B. Rupe James D. Smith James H. Spears Mark D. Starr Martin Swanson David R. Tarvin, Jr. Timothy J. Texel John R. Thompson Barry Waid Terri M. Weeks Melanie J. Whittamore-Mantzios Linda L. Willard

Printed with soy ink on recycled paper

Wendell January 5, 1998 Page - 2 -

(1997) and Grand Island Latin Club v. Nebraska Liquor Cont. Comm., 251 Neb. 61, 554 N.W.2d 782 (1997). We can find nothing within 71-4720 through 71-4733 (1996) that suggests Neb. Rev. Stat. §§ the Commission is authorized to conduct fundraising that activities. The absence of specific statutory language authorizing the Commission to engage in fundraising activities is significant in that the Legislature has specifically given the authority to apply for gifts and contributions to the Nebraska Dairy Industry Development Board, Neb. Rev. Stat. § 2-3957 (1991), the Department of Roads, Neb. Rev. Stat. § 13-1206 (1991); the Department of Economic Development, Neb. Rev. Stat. § 81-1268(3) (1994); the Rural Development Commission with the concurrence of the Department of Economic Development, Neb. Rev. Stat. § 81-1285 (1994); the Governor's Policy Research Office, Neb. Rev. Stat. § 84-135 (1994); the Commission on Mexican Americans, Neb. Rev. Stat. § 81-8,271 (1996); and the Commission on the Status of Women, Neb. Rev. Stat. § 81-8,260.01 (1996). We must conclude that the Legislature did not grant the power to the Commission to engage in fundraising activities in Neb. Rev. Stat. § 71-4731.

Sincerely,

DON STENBERG Attorney General

Melanie J. Whittamore-Mantzios Assistant Attorney General

Approved by: Attorney General

36-2452-8.23