

DIVISION OR PROCUREMENT: Duty of State Purchasing Agent to maintain inventory of removable equipment owned by State.

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Mr. Wm. L. Smith
State Purchasing Agent
Division of Procurement
Jefferson City, Missouri

Dear Sir:

Reference is made to your inquiry of recent date, requesting an official opinion of this office, and reading as follows:

"Section 69 of SCSSB 297 provides that the Purchasing Agent shall keep current inventories of all removable equipment owned by the State.

"I would like to have your opinion as to whether or not any department of the State may be exempt, such as the General Assembly or the Legislative Research department particularly."

Section 69 of Senate Committee Substitute for Senate Bill No. 297 of the 63rd General Assembly now appears as Section 11008.69, Mo. R. S. A., and reads as follows:

"The purchasing agent shall have the power to transfer supplies from any department where they are not needed to any other department where they are needed and to direct that proper charges and credits be made on the inventories of the departments concerned. He shall also have power, subject to the same provisions as for bids for purchases, to sell any surplus or unneeded supplies or property in his hands or owned by the state or any department thereof. He shall keep currently an inventory of all removable equipment owned by the state." (Emphasis ours.)

At first glance, it might be thought the emphasized portion of the act might require the State Purchasing Agent to maintain the inventory referred to therein with respect to all removable equipment owned by the State. A literal interpretation of the wording would lead to this result. However, for reasons pointed out subsequently, we do not believe that this is the proper construction to be placed upon the sentence.

It is an elementary rule of statutory construction that the legislative intent is to be ascertained and effect given thereto. This intent often must be gathered from a consideration of every part of an act, and when such intention is so ascertained it will always prevail over a literal sense of the terms employed. We quote from State ex rel. v. Smith, 115 S. W. (2d) 816, l. c. 823:

" * * * In construing an act, the true intention of the framers must be followed, and where necessary the strict letter of the act must yield to the manifest intent of the Legislature. City of St. Louis v. Christian Bros. College, 257 Mo. 541, 165 S. W. 1057.
* * *"

With this rule in mind, we have examined the entire group of statutes relating to the Division of Procurement, found as Sections 11008.62 to 11008.84, Mo. R. S. A., giving particular attention to Sections 11008.69, 11008.71 and 11008.73. The first section mentioned, which has been quoted supra, gives the Purchasing Agent power to transfer supplies and directs him to make proper charges and credits on the inventories of the departments concerned. It further authorizes him to dispose of surplus or unneeded supplies or property. Then follows the sentence now under consideration in this opinion.

It seems the purpose of this section is to place in the State Purchasing Agent the power to have immediately available information relative to all supplies and property owned by the State of Missouri but under the control of the various departments. Parenthetically, we might say that Section 11008.73 defines two of the terms which frequently appear in the statutes relating to the Division of Procurement, and reads as follows:

"The term 'supplies' used in this act shall be deemed to mean supplies, materials, equipment, contractual services and any and all articles or things, except as in this act

otherwise provided. Contractual services shall include all telephone, telegraph, postal, electric light and power service, and water, towel and soap service. The term 'department' as used in this act shall be deemed to mean department, office, board, commission, bureau, institution, or any other agency of the state, except the legislative and judicial departments."

To effectuate the obtention of such information over and above the records available in his own office relating to purchases and sales, the State Purchasing Agent is empowered under Section 11008.71 to require reports from various departments. This section reads as follows:

"Each department shall make such reports of supplies on hand, or which may be needed, as the purchasing agent may direct. All reports, bids, specifications and contracts, and all records of purchases and sales of any kind, whether by the purchasing agent or by departments as authorized by him, shall be kept in the office of the purchasing agent and shall be open to inspection by the public."

Here, then, is a complete scheme by which an inventory of equipment which is comprehended within the term "supplies" may be kept and maintained by the State Purchasing Agent. It then becomes pertinent, we think, to consider the exclusion of the legislative and judicial departments from the definition of the term "department" found in Section 11008.73.

It is apparent that the State Purchasing Agent has no powers or duties with respect to the purchase of equipment for these departments. It is equally apparent that he has no power or authority to require these two departments to make reports to him of such equipment as they may have on hand. Considering the effect of construing the emphasized portion of Section 11008.69 in accordance with the literal meaning of the words used, it becomes clear that such construction would lead to an unreasonable and absurd result. The Purchasing Agent has no sources of information respecting equipment purchased, in the control of or sold by the departments exempted in the definition of "department." The mechanics of maintaining a current inventory of such equipment under the control of the exempted departments would necessarily entail taking a daily inventory thereof. In these

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circumstances, we think another rule of statutory construction to be applicable. We quote from State v. Irvine, 72 S. W. (2d) 96, l. c. 100:

" * * * The courts will not so construe a statute as to make it require an impossibility or to lead to absurd results if it is susceptible of a reasonable interpretation. * * * "

We think the rule to be of particular applicability for the reasons discussed heretofore.

CONCLUSION

In the premises, we are of the opinion that the State Purchasing Agent is required to keep a current inventory of the removable equipment owned by the State and under the control of any departments thereof, as the term "department" is defined in Section 11008.73, Mo. R. S. A., which said definition excludes the legislative and judicial departments.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
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