

ADVERTISEMENTS -- INVRE: ADVERTISEMENTS FOR BIDS BY STATE PURCHASING
AGENT -- WHERE PLACED.

13773 74. RS Mo 1933
11-1



November 1, 1933.

Hon. George C. Johnson,
State Purchasing Agent
Capitol Building
Jefferson City, Missouri.

Dear Sir:

Your letter of October 14, reads as follows:

"The Purchasing Agent law provides that on purchases of \$2000 or more, advertisement for bids shall be published in at least two daily newspapers of 'general circulation in such places as are most likely to reach prospective bidders at least five days before bids for such purchase are to be opened.'

"It is likely that advertisements in the St. Louis and Kansas City papers would be 'most likely to reach prospective bidders' etc. However, the rates for advertising in the metropolitan papers are considerably in excess of the maximum rates as provided by Section 10401, found at page 323, of the Session Acts of 1923, copy of which is attached.

"Please give us an opinion as to whether or not we can run the advertisements in daily papers in smaller cities, for example, Jefferson City, where the rate would not exceed the maximum rate established by Section 10401, and still comply with the Purchasing Agent law."

STATUTORY PROVISIONS.

Section 10401, Revised Statutes of Missouri, 1919, referred to in your letter as repealed by Section 10401, found in Session Laws of Missouri of 1923, was a part of chapter 94, Revised Statutes of Missouri, 1919, said chapter being entitled "Public Notice and Advertisements" and said chapter appears now as chapter 114, Revised Statutes of Missouri, 1929, entitled "Public Notices and Advertisements."

Section 13773, Revised Statutes of Missouri, 1929, provides as follows:

"When any law, proclamation, advertisement, nominations to office, proposed constitutional amendments or other questions to be submitted to the people, order or notice shall be published in any newspaper for the State, or for any public officer on account of, or in the name of the State, or for any county, or for any public officer on account of, or in the name of any county, there shall not be allowed for such publication a higher rate than"

(and then follows a schedule of rates)

and then the section concludes as follows:

"When any law, proclamation, advertisement, nominations to office, proposed constitutional amendments or other questions to be submitted to the people, order or notice, shall be required by law to be published in any newspaper, the rates herein specified shall prevail, and all laws or parts of laws in conflict herewith, except sections 13777, 13778 and 13779, R. S. 1929, are hereby repealed."

The sections named as not repealed apply to cities of one hundred thousand inhabitants or more and the provisions of said excepted sections do not bear on question you submit.

Section 13774 provides:

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MISSING AT TIME
of Microfilming

for said advertisement.

Sections 13773 and 13774, Revised Statutes of Missouri, of 1929, include within the language thereof State supplies. The Purchasing Act of 1933 also covers "State supplies" and nothing else except negotiations for leases and purchase of lands for the State.

Section 13773, limits the rate to be paid for advertisements. The State Purchasing Act does not limit the rate to be paid.

Section 13773, is a general law on the subject of public advertisements while the State Purchasing Act is a particular law applying only to the Advertisement for purchase of State supplies.

The State Purchasing Agent Act of 1933 declares,

"The Purchasing Agent shall advertise for bids in at least two daily newspapers of general circulation in such places as are most likely to reach prospective bidders, * * * ."

This is a specific command. You state in your letter that the advertisement in the St. Louis and Kansas City papers would be most likely to reach prospective bidders; but the provisions of Section 13773, as to rates, forbids advertising in said city newspapers.

WHERE ONE STATUTE APPLIES TO A
MULTITUDE of SUBJECTS and a
LATER STATUTE APPLIES ONLY TO
ONE of the SUBJECTS, BOTH
STATUTES MAY STAND.

It was clearly the intent of the Legislature that

advertisements for bids for such large quantities of supplies, as the State buys, should be made in at least two daily newspapers in the places where such advertisement would most likely reach prospective bidders and if St. Louis and Kansas City or Springfield or Hannibal or any other cities and towns are places where advertisements in daily newspapers would most likely reach prospective bidders, the Statutes of 1933, command advertisement for bids in daily newspapers in said places.

The applicable rule of law is as follows:

"Contradictions in Statutes cannot stand. Where there is an act or provision which is general and applicable actually or potentially to a multitude of subjects, and there is also another act or provision which is particular and applicable to one of these subjects, and inconsistent with the general Act, they are not so inconsistent that both cannot stand, . . . the general Act would operate according to its terms on all the subjects embraced therein, except the particular one which is the subject of the special Act." Lewis Sutherland on "Statutory Construction" (2d ed.) Sec. 345 and Sec. 374.

Our own court lays down the rule in the following language:

"The particular mention of certain things in one statute will withdraw them from the application of the general words of another statute which would embrace them." Peck v. Watson, 92 Mo. App. page 89.

Applying these rules to the question submitted, it is the opinion of this department that the provisions of Section 13773 are broad enough to embrace within its terms - advertisements of the State Purchasing Agent for bids for State supplies as one of the many subjects to which said section would apply; and this would, of course, include the limitation in Section 13773, as to rates allowed to be paid for advertisement for State supplies, but the provision of the State Purchasing Act directing advertisements for State supplies only to be made where most likely to reach prospective bidders withdraws from

the many subjects included in Section 13773, the advertisements for State supplies by the State Purchasing Agent insofar as the limitation as to rates contained in Section 13773, is concerned if and when it is necessary for higher rates than those fixed in Section 13773, to be paid, to most likely reach prospective bidders for State supplies; but as to advertisements for all other matters than State supplies bought by the State Purchasing Agent, the rates fixed in Section 13773, for advertising are binding. This leaves both Statutes operating in their respective spheres.

It is the further opinion of this department, you should, when it is necessary to "most likely reach prospective bidders", advertise for bids in at least two daily newspapers of general circulation in St. Louis and Kansas City, Missouri.

Respectfully submitted,

EDWARD C. CROW
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.

EGC/AJ