

PAPER AND STATIONERY:

Duties of Commissioners of Public Printing under Sec. 13806 R. S. of Mo. 1929 in view of Senate Bill 192.

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Hon. Richard R. Nacy  
State Treasurer  
Jefferson City, Missouri

My dear Mr. Nacy:

We acknowledge your oral request for an opinion of this office respecting the effect of Senate Bill No. 192, upon the powers and duties of the Commissioners of Public Printing respecting the letting of the contracts for paper and stationery as provided for in Sec. 13806 R. S. of Mo. 1929, and in accordance therewith render the following opinion.

The duties placed upon the Commissioners of Public Printing in respect to the furnishing of paper and stationery are set forth in Section 13806, the pertinent parts of which read as follows:

"The commissioners of printing shall on or before the first day of July of each year give notice that sealed proposals will be received at the office of the secretary of state for the paper for the state printing, for stationery for both branches of the general assembly and for each and all of the state departments and bureaus for the term of one year from the first day of July. \* \* \* \* \*

It is contemplated that the contract will be awarded on the basis of these proposals and the contract promptly let. This, in view of the fact that the statute provides that the contract shall run from July 1st. The notice should be given, the proposals received, and the contract awarded prior to the first day of July, otherwise, the Commissioners would be required to purchase on the open market the necessary paper and stationery needed between the first of July and the date the contract is executed, thus losing to the state the obvious benefits of the general contract.

Senate Bill No. 192, as passed by the 57th General Assembly and approved by the Governor on April 21, creates the office of State Purchasing Agent, describes his powers and duties in respect to the purchasing of supplies required by the various boards, bureaus, commissions, institutions and departments. The parts of the Act applicable to the present issue are as follows:

"Section 2. The purchasing agent shall purchase all supplies, except printing, for all departments of the state, except in this act otherwise provided. \* \* \* \* \*

"Section 11. The term 'supplies' used in this act shall be deemed to mean supplies, materials, equipment, contractual services, and any and all articles or things, including the paper used for printing, but not the work of printing, used by any department of the state government. \* \* \* \* \*  
\* \* \* \* \* The term 'department' as used in the act shall be deemed to mean department, board, commission, bureau, institution, or any other agency of the state"

As the foregoing Act carries no emergency clause, it does not become the law on the subject until July 24, 1933; from and after that date, the duties of the Commissioners of Public Printing in respect to the purchase of the paper and stationery as required by Sec. 13806 are transferred to the State Purchasing Agent. Until that time, however, the duty and obligation is upon the Commissioners of Public Printing to comply with the law, the State Purchasing Agent being entirely without authority to act until after July 24. In the case of State Board of Election Commissioners, et al, v. Coleman, et al, 29 S.W. (2d) 619, the Supreme Court of Kentucky stated at page 622 as follows:

"It would seem that it would require the citation of no adjudged cases to demonstrate that it would be incompetent for public officers to perform completed duties under a law that had no existence then prospective or potential. Until the time arrives for it to take effect as a controlling mandate of governmental policy, it necessarily could have no more force than if it had never been enacted. In other words, it requires no argument to show that a statute is not a governing law until it does take effect and necessarily nothing provided for in it may legally be done until it does so. Hence we read from the text in 56 Cyc. 1192, subd C: 'Until the time arrives when it is to take effect and be in force, a statute which has been passed by both houses of the legislature and approved by the executive officer has no force whatever for any purpose, and all acts purporting to have been done under it prior to that time are void.'"

Section 13806 R.S. of No. 1929, being in full force and effect until July 24, 1933, the duty rests upon the Commissioners to comply with the provisions of the law. Not only are the duties of the Commissioners determined by the law effective at the time the law requires an act to be performed, but the rights for the contractor are also determined by the law at the time the contract is executed. The rule is laid down in 59 C.J., p. 187, a portion of Sec. 324 reading as follows:

"The rights of the contractor are fixed by the contract and by the law in force at the time of its execution."

And the State is bound by such contracts, as stated in 59 C.J., page 170, Sec. 285, reading as follows:

"The state is bound by contracts executed in its behalf by its authorized officers or agents, although not to be performed until after the expiration of such officer's term; and a contract made by state officers under statutory authority binds the state notwithstanding the subsequent repeal of the statute authorizing it."

It is therefore the opinion of this office that the Commissioners of Public Printing may proceed to advertise for bids and award a contract covering paper and stationery in accordance with the provisions of Art. 1 of Chap. 115, R.S. of Mo. 1929, and that if such contract is awarded in accordance therewith prior to July 24, 1933, the same will be a valid and subsisting contract.

Respectfully submitted,

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APPROVED:

ROY McKITTRICK,  
Attorney General

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