

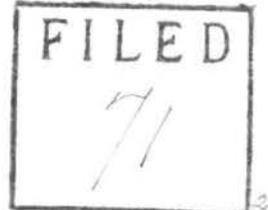
DEPARTMENT OF PENAL INSTITUTIONS:

State Purchasing Agent
has the right when
Senate Bill 192 goes
into effect to make all
purchases heretofore made
by the Department of
Penal Institutions.

*Letter attached to another opinion of same
date on S. Bill 204.*

May 11, 1933

Honorable George C. Johnson
Superintendent of Industries
Jefferson City, Missouri



Dear Mr. Johnson:

We acknowledge receipt of your letter
dated May 4, 1933, in which you state in part as follows:

"**** Also, we are in some doubt
as to the intention and effect of
Senate Bill No. 192 as to
purchases under the Revolving Fund,
which covers the operation of
the Industries.

If you will give me your opinion
on these matters promptly, I
assure you it will be appreciated."

The Department of Penal Institutions is
of statutory origin and does not derive its power from the
Constitution of the state.

By Senate Bill Number 192 there is created
and established the office of State Purchasing Agent.
The Governor is authorized to appoint, with the advice
and consent of the Senate, a State Purchasing Agent.

Section 2 of the Act provides that the
Purchasing Agent shall purchase all supplies, except
that provided for in Chapter 115 Revised Statutes 1929,
for all departments of the state, except as is in the
Act otherwise provided. Section 2 further says that
the Purchasing Agent shall negotiate all leases and
purchase all lands, except for such departments as derive
their power to acquire lands from the Constitution of the
State.

Section 4 of the bill provides that no department shall make any purchase except through the Purchasing Agent as is in the Act provided.

Section 5 provides that the Purchasing Agent may authorize any department to purchase direct any supplies of a technical nature, which in his judgment can best be purchased by such department. He may also authorize emergency purchases direct by any department.

Section 6 requires that on or before November 1st of each year, each department shall submit to the Purchasing Agent a classified list of its estimated needs for supplies for the following year.

Section 8 provides that the Purchasing Agent may prepare rules, regulations, classifications, standards and specifications to be used in the purchasing policy of the state and that the Purchasing Agent shall consult with and have the assistance of a committee, to be appointed by the Governor which committee shall consist among others of one representative from the Penal and Corrective Institutions.

Section 10 provides that any contract or order made by any department or agency of the state government for the purchasing of any supplies, materials, equipment or service contrary to the provisions of Senate Bill 192 shall be void and of no effect.

The term "supplies" as used in Senate Bill 192 is defined in Section 11 to mean:

"Supplies, materials, equipment, contractual service and any and all articles or things, except as in the Act otherwise provided."

The term "department" as used in the Act shall be deemed to mean:

"Department, office, board, commission, bureau, institution or any other agency of the state".

Honorable George C. Johnson

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May 11, 1933

The Department of Penal Institutions is nowhere excepted from the operation of the terms of the bill. The bill seems to have intended to cover all of the purchasing activities of the state. That the Department of Penal Institutions was intended to come within the Act is shown by the fact that in Section 8 a representative of the Department of Penal Institutions is to be a member of the committee that shall consult with the Purchasing Agent.

We are of the opinion that if and when Senate Bill Number 192 is signed by the Governor of the State and if and when the same goes into effect in due course, no emergency clause being attached, the supplies, materials, equipment, contractual service and any and all articles and things heretofore contracted for or purchased by the Commissioners of the Department of Penal Institutions shall thereafter be contracted for and purchased by the State Purchasing Agent, unless otherwise directed by the State Purchasing Agent, but that said bill refers alone to the Act of contracting or purchasing and that all other of the duties of the Board of Penal Institutions, including the method of payment for such supplies, as above defined, will remain unimpaired so far as Senate Bill number 192 is concerned.

Very truly yours,

GILBERT LAMB
Assistant Attorney General,

APPROVED:

Attorney General.

GL:LC