

SECRETARY OF STATE
PRINTING CONTRACT
STATE PURCHASING AGENT -

State Purchasing Agent has no control over printing for Missouri Commission for the Blind but such printing is entitled to be done by the State Printing Commission.

5-21
May 17, 1934



Honorable Dwight H. Brown
Secretary of State
Jefferson City
Missouri

Dear Mr. Brown:

Receipt of your letter addressed to this Department dated May 9, 1934 is acknowledged. Your letter follows:

"The question has been raised in the Printing Commission as to the present classification of the Blind activities in the State. The question arises in connection with the duty and right of the Printing Commission to furnish paper and printing for these activities. As you know, the Educational Institutions and Eleemosynary Institutions are not under the Printing Commission. The action of the General Assembly in changing the method of administration of the blind activities, may have or may not have taken them from under the control of the Printing Commission in the matter of paper and printing.

Will you kindly advise us on this matter. Thanks."

A. State Printing Commission.

By Section 13782 Revised Statutes Missouri 1929 the Secretary of State, State Auditor and State Treasurer are designated as ex-officio commissioners of the public printing for the State of Missouri.

Section 13783 divides the printing for the State into three classes for the purpose of letting state printing contracts. The second classification includes all reports and all communications ordered by the executive departments to be printed in pamphlet form. The section further provides:

"The printing of all blanks, circulars and other work necessary for the use of the executive departments, other than such as shall be printed in pamphlet form, shall constitute the third class * * * *."

Section 13790 prescribes the character of printing to be done for the executive departments of the State and is sufficient to include every kind and character of printed supplies that might be necessary for the use of any branch of the executive department of the state.

Section 13799 in part provides:

"All work to be executed for the executive departments shall be ordered through the Commissioners of Public Printing, and a requisition shall be obtained in advance signed by the head of the department ordering such work and said requisition shall be approved by the Commissioners of Public Printing* * * *."

In the last mentioned section it is provided further:

"Executive departments shall in this and other sections of this chapter be construed to mean both the heads of said departments and the subordinate branches thereof, the boards, commissions, bureaus and officers appointed by the heads of said departments, except the boards of educational and eleemosynary institutions of the state."

Accordingly, printing for the State educational and eleemosynary institutions is not required to be done through the State Printing Commission nor furnished under the State printing contract.

B.

Missouri Commission for the Blind.

Section 8888 Revised Statutes Missouri 1929, provided for the appointment by the Governor, with the consent of the Senate, of five persons who would constitute the Missouri Commission for the Blind to carry out the applicable part of Section 47 of Article IV of the Constitution of the State of Missouri. In succeeding sections, as well as in Article I of Chapter 51, the purposes of the Act, as well as the duties and powers of the members of the Commission, are set out. By Laws of Missouri 1933, page 190, Sections 8888 and 8892 Revised Statutes of Missouri 1929, were repealed and two sections enacted in lieu thereof. The sections as re-enacted, Laws 1933, page 191, are as follows:

"Sec.8888.Defining Commission.- The Missouri Commission for the Blind shall hereafter consist of the Members of the Board of Managers of the State Eleemosynary Institutions as now or hereafter provided for and constituted by Article 1, Chapter 46, Revised Statutes of 1929, and wherever in any law the Commission for the Blind is referred to it shall, after the taking effect of this act, be construed as referring to the members of the said Board of Managers of the State Eleemosynary Institutions, who are by this act designated and constituted the members of said Commission for the Blind. The officers of the Board of Managers of the State Eleemosynary Institutions shall be the officers of the Commission for the Blind as herein constituted.

Sec.8892. Compensation of members. - The officers and members of the Commission hereby created shall receive no salary or other compensation for their services as officers or members of the Commission for the Blind, but their traveling expenses and other necessary expense in the performance of their duties as officers and members of the Commission for the Blind may be allowed and paid them out of any funds that may be appropriated by the State for the use of said Commission."

It will be observed that the duties and powers of the Commission were in nowise changed by the enactment of 1933. By Section 8888, as re-enacted, the name 'Missouri Commission for the Blind' is retained. Instead of the members of the Commission being appointed by the Governor, with the consent of the Senate, the appointments are made by the Legislature so that so long as there are members of the Board of Managers of the State Eleemosynary Institutions there will also be members serving as the Missouri Commission for the Blind. The same persons occupying two entirely different and unrelated offices with separate and distinct duties to be performed as to each office.

The situation here is very similar to Section 18 of Article X of the Constitution of the State of Missouri, which provides that there shall be a State Board of Equalization in this state consisting of the Governor, State Auditor, State Treasurer, Secretary of State and Attorney General. As to whether or not such state officers were ex-officio members of the State Board of Equalization the Supreme Court of this State, in State ex rel McGrath v. Walker 97 Mo. 162, 163, said:

"It will thus be seen from the provisions of the constitution just noted, that the state officers mentioned in section 24, supra, are not ex-officio members of the state board of equalization, that is, their membership of that board is not the result of their holding certain state offices; but is the result of their appointment to such board, by an independent and distinct provision of the constitution. 1 Burrill Law Dict., title ex-officio. But for such independent provision they would not have been members of such board."

C.

State Eleemosynary Institutions.

Section 8560 Revised Statutes Missouri 1929 reads:

"The state hospital No. 1, at Fulton, the state hospital No. 2, at St. Joseph, the state hospital No. 3, at Nevada, the state hospital No. 4, at Farmington, the Missouri state sanatorium, at Mount Vernon, and the Missouri state school at Marshall, are hereby declared to be state

eleemosynary institutions of the state of Missouri within the meaning of the provisions of this article."

By specifically defining certain state institutions to be Eleemosynary Institutions it necessarily follows that there are no other institutions in this state that may be classed or recognized as State Eleemosynary Institutions. An eleemosynary institution is generally defined as an institution, either public or private, devoted or dedicated to extending charity or giving alms.

Words and Phrases Vol. 3, page 2343,
Words and Phrases 3rd Vol. (3rd series) page 164.

It is common knowledge that the blind in this state receiving pensions on account thereof are not segregated, but generally live in the same home or place where such person lived prior to the receiving of such pension. Section 8893, in fact, provides that:

"Blind persons who are maintained in either public, private, or endowed institutions, or by private persons who would otherwise be entitled to a pension under this article, shall not be entitled to the benefits of this article* * * *".

Section 8889, setting forth the purposes of the blind pension act, as well as the duties of the Missouri Commission for the Blind, closes with this proviso,

"Provided, however, that no part of the funds appropriated by the State shall be used for solely charitable purposes; the object and purpose of this article being to encourage capable blind persons in the pursuit of useful labor and to provide for the prevention and cure of blindness."

While the constitutional provision above referred to authorizes the raising of funds as a pension to the deserving blind, yet it does not appear that in order to receive such

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pension a blind person must be reduced to such a financial condition that they would be required to be committed to public charity because upon that being done, as above stated, the right to such pension ceases and the purposes of the law would wholly fail. The property disqualification as to a person receiving a blind pension is stated in Section 8893.

Conclusion.

It is the opinion of this Department that the person, firm or corporation holding the contract to do the printing designated as the third class, under Section 13783, Revised Statutes Missouri 1929, is entitled to do all the printing for the Missouri Commission for the Blind, except that pamphlets printed under the second class designated in such section as that class, is entitled to be done by the person, firm or corporation holding the state contract to do such printing of the second class; that the fact that the members of the State Board of Managers for the eleemosynary institutions also constitute the membership of the Missouri Commission for the Blind, in nowise constitutes such Missouri Commission for the Blind nor any of its activities a state eleemosynary institution, but that the Missouri Commission for the Blind is a branch of the executive department of the state and over whose purchases for printing the State Purchasing Agent has no control.

Very truly yours,

GILBERT LAMB
Assistant Attorney General,

APPROVED:

ROY McKITTRICK
Attorney General,

GL:LC