

STATUTES: EFFECT OF GENERAL REPEAL PROVISION IN STATE
PURCHASING AGENT LAW ON PRIOR STATUTES.

10-15
September 8, 1934.



Hon. S. B. Hunter, Chairman
Department of Penal Institutions,
Jefferson City, Missouri.

Dear Sir:

Your letter of August 18, 1934, addressed to this department has been received. In this letter you state and inquire as follows:

"Under the Session Act of 1933 creating a State Purchasing Agent, we find that Section 4, 6, 8, 10, and 11 seem to, in some ways, deal with some things found in the Sections of the Revised Statutes of Missouri, 1929, dealing with penal institutions, especially Sections 8323, 8331, 8332, 8407, and 8452. Then, Section 14, page 414 of the Laws of Missouri, 1933, reads as follows:

'All acts or parts of acts inconsistent or in conflict with this Act are hereby repealed to the extent of such inconsistency or conflict.'

Nowhere is there any reference to any particular Section or part of any Section being repealed, but it seemed to be a blanket attempt to repeal anything that might be in conflict with the Sections setting up the State Purchasing Agent.

Now, under the Sections of the Statutes dealing with the penal institutions, certain responsibilities and duties were set up for the Penal Board and the officials of the penal institutions. We want to know if the law creating a State Purchasing Agent relieves us of these duties and responsibilities.

If the repealing Act had set out any particular Sections or parts of Sections as being repealed, we would not be in any doubt at all. However, as the Act does not, and having no desire to be in conflict with the State Purchasing Agent and only wanting to perform the duties that the law in-

tends the Penal Board shall perform, we shall be pleased to have you advise us if the repealing Act repealed the Sections referred to above; that is, Sections 8323, 8331, 8332, 8407, and 8452 of the Revised Statutes of Missouri, 1929."

Section 14, page 414 of the Session Acts of Mo. 1933, reads as follows:

"All acts or parts of acts inconsistent or in conflict with this Act are hereby repealed to the extent of such inconsistency or conflict."

This Section is clear and unmistakable in its meaning. Only such parts of Sections 8323, 8331, 8332, 8407, 8452 that conflict with the duties of the State Purchasing Agent are repealed. It is, of course, possible that a portion of said Sections of the Statutes are repealed and the remainder is in full force and effect. As to what portions are conflicting is left to your own judgment in the absence of a specific interpretation by this department, or by the courts.

I quote to you from the case of State ex rel v. Assurance Companies, 251 Mo. 278, l. c. 292, which reads as follows:

"The Oliver Act which was approved March 18, 1911, does not purport in terms to repeal any pre-existing laws, but upon the contrary, Section 11, by necessary implication, repels any such conclusion to be drawn therefrom, for it in express terms provides that 'all laws and parts of laws in conflict with this act are hereby repealed,' and consequently all laws and parts of laws not in conflict therewith are not repealed thereby, but are left in full force and effect. That is the common sense of the language used, and the clear design the Legislature had in mind when it enacted it."

The syllabi of the case of Nichols v. Hobbs, 197 S. W. 258, contains the following statement:

"A later statute does not repeal an earlier one by express provision that it repeals former acts inconsistent with it, if they can both be given effect without clear repugnancy or unreasonableness."

Hon. S. B. Hunter

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It is, therefore, the opinion of this department that Section 14 above set forth repeals only those portions of other statutes which are clearly in conflict with the laws governing the State Purchasing Agent. Section 14 relieves the Penal Board of such duties and responsibilities as are clearly placed upon the State Purchasing Agent by said Act. It is quite possible that only a portion of a statute is in conflict with said Purchasing Agent Act, and that the balance of said statute is still the law governing the Penal Board.

Respectfully submitted,

GILBERT LAMB
Assistant Attorney General,

APPROVED:

ROY McKITTRICK
Attorney General.

GL:LC