

July 9, 1946



7/24  
Charles A. Brasher, M. D.  
Superintendent  
Missouri State Sanatorium  
Mt. Vernon, Missouri

Dear Sir:

We hereby acknowledge receipt of your recent request,  
which reads in part as follows:

"\* \* \* Senate Bill No. 349, Section 1,  
abolishes the state board of health, the  
board of managers of the state eleemosynary  
institutions and the state social security  
commission, and all the powers and duties  
heretofore exercised by them are vested in  
'the department of public health and wel-  
fare,' headed by a director. Then, there  
will be established three divisions of this  
department; namely, the division of health,  
the division of mental diseases, and the  
division of welfare, and the division of  
health (Sec. 13) will have control and ad-  
ministration of this hospital.

"In other words, the direction of this  
hospital will no longer be under the same  
direct administration as the mental hos-  
pitals (formerly referred to as the elee-  
mosynary institutions) but will now be  
under the division of health which is  
successor to the present state board of  
health.

"Since Senate bill 129 was passed in March  
and 'related to State Eleemosynary Insti-  
tutions,' a term generally used for mental  
hospitals, we wondered if this hospital,  
which will no longer be in this group on

July 1st, but under the division of health, would still be considered under Senate bill 129, Sec. 9283, which places the employes of 'the several institutions' under a merit system and a minimum compensation of \$900.00 per year."

Senate Bill No. 129, referred to in your letter, provides:

"AN ACT To repeal Section 9283 of Article I, Chapter 51, Revised Statutes of Missouri 1939 relating to State Eleemosynary Institutions, nurses, attendants, and other employees and relating to their employment and their compensation, and to enact a new section to be known as Section 9283 relating to the same subject matter.

"Be it enacted by the General Assembly of the State of Missouri, as follows:

"Section 1. That Section 9283 of Article I, Chapter 51, Revised Statutes of Missouri 1939 relating to State Eleemosynary Institutions, nurses, attendants, and other employees, their employment and compensation, be and the same is hereby repealed and a new section enacted in lieu thereof relating to the same subject matter to be known as Section 9283 and to read as follows:

"Section 9283. All nurses, attendants, and other employees necessary to the economic administration of the several institutions shall be employed on the basis of merit as provided by law; provided, however, that no employee shall be paid as compensation for his or her services less than \$900.00 per year."

At the time that this act was adopted and signed, the Missouri State Sanatorium was under the control of the Board of Managers of the State Eleemosynary Institutions. In determining which institutions were intended to be affected

by this act, we may properly examine the title to ascertain the intention of the Legislature. The case of Holder v. Elms Hotel Co., 92 S. W. (2d) 620, 1. c. 622, 338 Mo. 857, 140 A. L. R. 339, states:

"\* \* \* Since the title to an act is essentially a part of the act and is itself a legislative expression of the general scope of the bill, it may be looked to as an aid in arriving at the intent of the Legislature. Strottman v. St. Louis, I. M. & So. R. Co., 211 Mo. 227, 109 S. W. 789."

You will note that in the title of Senate Bill No. 129, supra, reference is made to Article I, Chapter 51, Revised Statutes of Missouri 1939 relating to State Eleemosynary Institutions. We may assume, therefore, that it was the intention of the Legislature in adopting this act that it should affect all such State Eleemosynary Institutions. In that same article and chapter, Section 9258 defines State Eleemosynary Institutions as follows:

"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."

We may, therefore, conclude that, in the absence of the showing of a contrary intention, the Legislature intended that Senate Bill No. 129 should apply to all of the eleemosynary institutions designated by Section 9258, R. S. Mo. 1939, supra. This is true especially in the light of the fact that Senate Bill No. 349 was adopted subsequently to Senate Bill No. 129. Senate Bill No. 129 was sent to the Governor on March 14, 1946, whereas Senate Bill No. 349 was sent on April 1, 1946, at which time Senate Bill No. 129 had already been signed. We merely mention this in passing to assist us in

arriving at the true legislative intention.

Looking to Senate Bill No. 349 for a declaration of intention, contrary to that above noted, Section 1 thereof provides:

"There is hereby created and established as a department of state government a department of public health and welfare, which may hereafter be referred to as the department. The scope and purpose of the department of public health and welfare shall be to improve and protect the health of the people of the State of Missouri; to care for the mentally ill and those who are ill from other causes, so far as the laws of Missouri shall provide; to provide care and maintenance for certain other persons, as provided by law; to administer laws concerning social welfare, including certain social security laws. The department of public health and welfare shall be composed of three divisions, namely: the division of health, the division of mental diseases, the division of welfare. The state board of health as established by Article I, Chapter 57, Revised Statutes of Missouri, 1939, the board of managers of the state eleemosynary institutions, as established by Article I, Chapter 51, Revised Statutes of Missouri, 1939, and the state social security commission, as established by Article I, Chapter 52, Revised Statutes of Missouri, 1939, all as amended, are hereby abolished and discontinued and all powers and duties over activities and institutions pertaining to, controlled by and administered through the state board of health, the board of managers of the state eleemosynary institutions, and the state social security commission shall henceforth be vested in

and administered through the department of public health and welfare, together with any additional powers and duties which may herein or hereafter be assigned to the department." (Underscoring ours.)

By this section the Board of Managers of the State Eleemosynary Institutions was abolished. However, we find no reference to the institutions themselves which changes their status insofar as Senate Bill No. 129 is concerned.

Section 13 of Senate Bill No. 349 provides:

"All powers and duties heretofore under administration and control of the state board of health, except the examination and licensing of persons, shall henceforth be under administration and control of the department of public health and welfare and shall be assigned to the division of health within the department, together with all other powers and duties which may herein or hereafter be assigned. In all laws of Missouri, and orders and findings issued thereunder, wherever the term state board of health is used, the term division of health shall hereafter be substituted and understood. The division of health shall also have control and administration over the Missouri state sanatorium at Mt. Vernon in the same manner and to the same extent as has heretofore been lawfully exercised by the board of managers of the state eleemosynary institutions under Article I, Chapter 51, Revised Statutes of Missouri, 1939, with amendments thereto. The division of health shall also have such jurisdiction over the accounts of city and county tuberculosis hospitals as has heretofore been lawfully exercised by the board of managers of the state eleemosynary institutions. The

cancer commission of the state of Missouri, as established by Chapter 125, Revised Statutes of Missouri, 1939, as amended, is hereby assigned to the division of health in the department of public health and welfare." (Underscoring ours.)

Although the control and administration of the Missouri State Sanatorium at Mt. Vernon is transferred to the Division of Health of the Department of Public Health and Welfare by virtue of this section, it is to be noted that this control and administration is to be in the same manner and extent as was exercised by the Board of Managers of the State Eleemosynary Institutions under Article I, Chapter 51, R. S. Mo. 1939, with amendments thereto. Senate Bill No. 129 is in effect an amendment to Article I, Chapter 51. This would lend even more support to the conclusion that the Legislature intended that Senate Bill No. 129 should apply to the Missouri State Sanatorium.

CONCLUSION

It is, therefore, the opinion of this department that Senate Bill No. 129 applies to the Missouri State Sanatorium at Mt. Vernon.

Respectfully submitted,

J. MARTIN ANDERSON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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