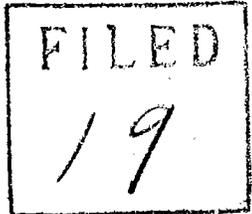


DEPARTMENT OF BUSINESS AND ADMINISTRATION : Duties of Director of the Department
: of Business and Administration in
: making consolidated report to the
: Legislature and to the Governor of
: the activities of the divisions in
: his Department under sub-section
April 29, 1947 (f) of Section 4 of Senate
Bill No. 348.

Honorable Bert Cooper
Director
Department of Business and Administration
Jefferson City, Missouri

5/11



Dear Mr. Cooper:

This will acknowledge your letter requesting the opinion of this Department on the terms and effect of sub-section (f) of Section 4 of Senate Bill No. 348. Your letter is as follows:

"Would you please give me your interpretation of paragraph 'f' Section 4, pages 3 and 4 of Senate Committee Substitute for Senate Bill 348, passed by the Sixty-third General Assembly? The following questions are of immediate concern to us:

"1. Does the consolidated report made by the Director of Business and Administration, as required by the aforesaid law, exempt each of the divisions of the department from all other reports here-to-fore required by the law? For example: Is the Commissioner of Finance relieved from the requirements of Section 7884, 1939 Statutes and the requirements of the other statutes pertaining to the subject, if any? Again, is the Superintendent of the Division of Insurance exempt from the requirements of Sections 5792, 5797 and 15005 and other statutes pertaining to the same subject, if any?

"2. May the consolidated report of the director of the Department of

Business and Administration be published in sections, each covering a division? If so, what form would you suggest?"

The preamble in said Section 4 of said Senate Bill No. 348, and said sub-section (f) of said Section 4, are as follow:

"Section 4. It shall be the duty of the director of the department of business and administration and he shall have power, except as to the public service commission, to:

* * * * *

"(f) Prepare and submit to each regular session of the general assembly and to the governor a report of the activities of the department, including the activities of each division in the department, which report shall be in lieu of any report now required by law for any department or office, the powers and duties of which are by this act vested in a division in the department."

Your letter is directed in particular to the interpretation by this Department of the question whether the consolidated report required to be made, and which no doubt will be made, under said sub-section (f), exempts each of the divisions of the Department of Business and Administration from making all other reports required to be made by such departments of State government before Senate Bill No. 348 was enacted, and which departments have been included in the Department of Business and Administration. You ask the direct question whether the Commissioner of Finance is relieved from making the report required in Section 7884, R.S. Mo. 1939, and if the Superintendent of the Division of Insurance is exempt from making the reports by that Department heretofore required by Sections 7884, 5792, 5797 and 15005, R.S. Mo. 1939.

Sub-section (f) of said Section 4 of said Senate Bill No. 348, provides for what we believe you very aptly

designate as a "consolidated" report to each regular session of the General Assembly, and to the Governor, of the activities of the Department, including the activities of each division thereof, which report shall be in lieu of any report now required, that is to say, that was required before the enactment of said Senate Bill No. 348, by law from any Department or office, the powers and duties of which are by said Senate Bill No. 348 vested in the Department of Business and Administration. We construe and interpret such terms of said sub-section (f) as relieving all of the divisions now included in the Department of Business and Administration from making such reports as are provided for in Sections 7884, 5792, 5797 and 15005, R.S. Mo. 1939, and that such reports as they may make under the rules and regulations established by the Department of Business and Administration should be made directly to the Director of that Department instead of independent reports to the Governor and the Legislature as are provided in said named sections. The Legislature, in enacting said Senate Bill No. 348, intended, we believe, that such reports as are required of the Director of the Department of Business and Administration should not be a duplication, as such, of separate reports formerly required by divisions of administration now placed within the one department of Business and Administration, under the terms of said Section 4, and sub-section (f) thereof, but that one comprehensive report concerning all divisions shall be made by the Director of the Department of Business and Administration to the Governor and the Legislature.

Said Section 7884, R.S. Mo. 1939, provides that the Commissioner of Finance shall preserve all records of his department and make a report to the Governor by December 1, of each year.

Said Section 5792, requires an annual report by the second Monday of February in each year, or soon thereafter, to the Legislature, if in session, and if not, to the Governor, containing a general accounting of the activities and business of his department for the previous year.

Said Section 5797, R.S. Mo. 1939, provides that the Superintendent of Insurance shall make an accounting, upon proper vouchers, for all money transactions, and report the same, after the same have been audited by the State Auditor, in the annual report required of him by said Section 5792.

Said Section 15005, R.S. Mo. 1939, we think, has no particular bearing upon the question here being considered. That section merely provides that in addition to the annual report--we assume that the report required by Section 5792, and named in said Section 15005 as "The Missouri Insurance Report" is meant--such additional information shall be included, necessary to supply factual information for the publication of the "Missouri and State Publications", under Article 2, Chapter 120, R.S. Mo. 1939. However, regardless of to whomsoever such departmental reports were required to have been made to State officers or for any purpose, we believe they are submerged in and superseded by the terms of said Senate Bill No. 348 requiring the consolidated report to be made under sub-section (f) of Section 4 thereof, to the Governor and to the Legislature. Otherwise they would be duplications of the reports undoubtedly required to be made under sub-section (a) to the Director of the Department of Business and Administration by the heads of the divisions of such Department.

Sub-section (f) of Section 4 of Senate Bill No. 348 provides that the reports by the Director of the Department of Business and Administration to the General Assembly and to the Governor "shall be in lieu of any report now required by law for any department or office, the powers and duties of which are by this act vested in a division in the department". This, we believe, indicates that it was the intention and purpose of the Legislature in enacting said Senate Bill No. 348, and in particular, that part of said sub-section (f), just quoted, to repeal the requirements of the statutes in this State, to-wit: Sections 7884, 5792, 5797 and 15005, R.S. Mo. 1939, and any other section providing for such reports previous to the enactment of said Senate Bill No. 348, because they would be, and are, in conflict therewith, and that insofar as those enumerated sections, requiring such separate reports from departments, the powers and duties of which are, by said Senate Bill No. 348 vested in the Department of Business and Administration are, by implication, repealed.

If, then, the powers to be exercised, and the duties to be performed, by the divisions of such department are placed by said Senate Bill No. 348 in the Department of Business and Administration --and they are so placed by Sections 7, 8, 9, 10, 11, 12, and, likewise, future assignments of any department or agency in this State that are placed within the authority of the Department of Business

and Administration, as is provided in Section 13 -- then the consolidated report provided for in sub-section (f) of Section 4, would necessarily be in lieu of divisional reports heretofore required of any of them, to the Governor or the Legislature before the passing of said Senate Bill No. 348.

We do not mean to be understood as construing said Section 4 of said Senate Bill No. 348 as not requiring reports from the several divisions of the Department of Business and Administration to the Director of that Department. We think such divisional reports must be made, and be filed, indexed and preserved, for the purpose of making the consolidated report by the Director required in sub-section (f) showing the activities of each division in his department.

Section 6 of said Senate Bill No. 348 specifically exempts the Public Service Commission from the control or supervision of its proceedings and affairs, by the Department of Business and Administration, in the following paragraph of said Section 6, to-wit:

"The public service commission, as now established by law, shall be continued and constitute a division in the department of business and administration, but the director of the department of business and administration shall have no supervision, authority, or control, over the actions or decisions of the public service commission. * * *".

It will be seen, therefore, that the Department of Business and Administration shall have no authority whatever over the Public Service Commission, or its affairs.

The second question submitted in your letter is whether the consolidated report of the Director of the Department of Business and Administration may be published in sections, each covering a division.

Our view of the question is that, not only may the consolidated report of the Director be published in sections, each section covering a division, but we believe that under sub-section (a) of Section 4 in order for the Director of the Department of Business and Administration to "Investigate, assemble, develop and study information regarding the structure and operation of the divisions in the department of business and administration and recommend

to the head or heads of the division such changes, if any, in administrative practices, and recommend to the General Assembly such changes, if any, in the law as in the opinion of the director will result in coordination of the work of the division in the department and in greater efficiency and economy" it would be imperative that he have, periodically, comprehensive reports from the division heads from which he could perform the duties required of him in said sub-section (a), and from which he may make a clear and understandable consolidated report as is so required in said sub-section (f).

The divisional reports made must, we believe, necessarily be each in a separate section from all other division reports, because they would each be reporting the activities of a different business, at different costs and expense, and on wholly unrelated subjects. They, therefore, could not well be, in the interest of clarity in reporting such activities, and in accuracy in showing the efficiency of the methods of the performance of such divisional activities, should not be intermingled. We believe they should be published separately and in sections, as you suggest, in your consolidated reports to the Governor and the Legislature as sub-section (f) of said Section 4 requires.

Your letter suggests that this Department indicate the form to be used in the consolidated report to the Legislature and the Governor in event your reports are published in sections.

As we have observed hereinabove, division heads of the several divisions composing the Department of Business and Administration should make separate reports to the Director of the Administration, setting forth the activities and records and facts pertaining to the particular division making the report. If this be a proper procedure, and we believe it is, it would be necessary for the Director of the Department to require each division head to keep a strict record of that department's actions, requisitions, and other activities in procuring and purchasing items for each department, and that reports thereof, be periodically made to the Director, and that the Director keep in a properly indexed and systemized file the separate reports showing the records of each division, so that he may not only have a check upon the activities of each division, but that he may consolidate such reports into his own report to the Legislature, and the Governor, as the case may require, under sectional divisions and sub-heads in the report but all to be published in one volume. The observation of these suggestions, we believe, will comply with the terms of said sub-section (f) of said Section

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4, and permit the Department of Business and Administration to publish in sections, the activities of each division.

CONCLUSION.

It is, therefore, the opinion of this Department:

1) That the consolidated reports required to be made by the Director of Business and Administration covering the activities of the divisions in such Department, under sub-section (f) of Section 4 of Senate Bill No. 348, to the Legislature and to the Governor, supersede and take the place of reports formerly required to be made by such departments as are now included as divisions of the Department of Business and Administration, and that any section of the statutes of this State, particularly Sections 7884, 5792, 5797 and 15005, R.S. Mo. 1939, insofar as they conflict with the provisions of said sub-section (f) of Section 4, Senate Bill No. 348, are, by implication, repealed, respecting the reports provided for in said enumerated sections.

2) That Section 6 of Senate Bill No. 348 specifically exempts the Public Service Commission, as now established by law, from any authority, supervision or control over the actions or decisions of the Public Service Commission by the Department of Business and Administration.

3) That the consolidated report of the Director of the Department of Business and Administration may be published in sections under separate divisional sub-heads in said consolidated reports, but to be published in one volume.

Respectfully submitted,

GEORGE W. CROWLEY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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