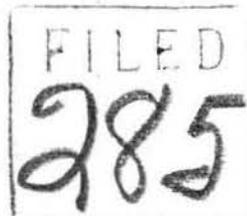


STATE RECORDS ACT:
UNIVERSITY OF MISSOURI:
PUBLIC RECORDS:

House Bill No. 294 does not apply to the
University of Missouri.

OPINION NO. 285

September 14, 1965



Honorable James C. Kirkpatrick ✓
Secretary of State
Capitol Building
Jefferson City, Missouri

Dear Mr. Kirkpatrick:

This is in response to your letter of July 9, 1965, in which you inquire whether House Bill No. 294, enacted by the 73rd General Assembly and known as "State Records Act" applies to the University of Missouri.

In substance this act provides for a state records commission to be composed of the Secretary of State, Attorney General, State Auditor, a member of the House of Representatives, and a member of the Senate. The Secretary of State is authorized to establish a records management and archives service and to appoint a director with authority to establish procedures and techniques for the preparation, management, retention and disposal of State records subject to the approval of the commission. It authorizes the commission to determine what records no longer have any administrative, legal, research, or historical value and should be destroyed or otherwise disposed of. It prohibits the destruction of any such records without the approval of the commission.

Article IX, Section 9 (a), Constitution of Missouri 1945, reads as follows:

"State university--government by board of curators-- number and appointment.--The government of the State University shall be vested in a board of curators consisting of nine members appointed by the governor, by and with the advice and consent of the senate."

In an opinion issued on January 29, 1934, to Orville M. Barnett, Attorney General McKittrick considered the applicability of the State Purchasing Act (now Section 34.01 et. seq.) to the University of Missouri and ruled that the constitutional provision, supra, prevented the State Purchasing Act from applying to the University of Missouri. A copy of this opinion is attached hereto.

In an opinion issued by this office on December 19, 1955, to DeVere Joslin, Attorney General Dalton ruled that the board of curators of the University of Missouri has legislative authority to invest the funds in its hands derived from sources other than appropriations made by the General Assembly and that the statutes pertaining to the deposit of State funds have no application. A copy of this opinion is hereto attached.

Honorable James C. Kirkpatrick

In an opinion issued by this office on April 18, 1962, to June R. Rose, Chairman, Attorney General Eagleton ruled that the prevailing wage law (Section 290.210 through 290.310) has no application to the University of Missouri. A copy of this opinion is also attached.

It must be observed that in these opinions much stress was given to the word "government" as used in the above constitutional provision. It appears that under this constitutional provision the power to govern the University of Missouri is vested in the board of curators of the University and that the Legislature is without authority to interfere.

The keeping of the records at the University of Missouri would be a vital part of the government of the University and determining what records should be made and kept by the University are matters of government of the University and beyond the power of the Legislature to control.

CONCLUSION

It is the opinion of this office that provisions of House Bill No. 294, 73rd General Assembly, known as the "State Records Act" do not apply to the University of Missouri.

Very truly yours,


NORMAN H. ANDERSON
Attorney General

Enclosures (3)