

Answer by letter-Wieler

March 6, 1970

OPINION LETTER NO. 176

Mr. James J. Butler, Chairman  
Industrial Commission of Missouri  
Post Office Box 599  
Jefferson City, Missouri 65101



Dear Mr. Butler:

This is in response to your request for an opinion from this office concerning the applicability of the Prevailing Wage Law, Sections 290.210 to 290.345, RSMo, as amended by Senate Bill No. 142 as enacted in 1969, to public works projects initiated by the University of Missouri and its several divisions.

In Opinion No. 156, issued April 18, 1962, to Mr. June R. Rose and Opinion No. 281, issued August 24, 1962, to Mr. June R. Rose, we held that the Prevailing Wage Law did not apply to the University of Missouri or the Rolla School of Mines, a division of the University of Missouri. You now ask if our holding in these opinions should be revised in view of the latest amendments to Section 290.-210 (6), RSMo. Section 290.210 (6) now reads:

"'Public body' means the state of Missouri or any officer, official, authority, board of commission of the state, or other political subdivision thereof, or any institution supported in whole or in part by public funds;"

However, it is still our view that the Prevailing Wage Law does not apply to the University of Missouri and its several divisions, despite the language of Section 290.210 (6), as amended. Our holding in the earlier opinions revolved around an interpretation of Article IX, Section 9(a) of the Missouri Constitution, which reads as follows:

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"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."

We noted in these opinions that the word "government" as found in the above mentioned constitutional provision has been given a very broad interpretation, both by the courts and in prior Attorney General's opinions. See State ex rel. Heimberger v. Board of Curators of University of Missouri, 268 Mo. 598, 188 S.W. 128, 131 (en banc 1916), which discusses the term "government" as applied to the Board of Curators under the constitution in effect at that time. See also State ex rel. Curators of the University of Missouri v. Neill, 397 S.W.2d 666, 669 (Mo. en banc 1966), which also adopts a broad meaning to the term "government" as applied to the power of the Board of Curators of the University of Missouri to issue revenue bonds to build parking facilities. In addition, enclosed is an opinion issued September 14, 1965, to the Honorable James C. Kirkpatrick, Secretary of State, in which we held that the provisions of House Bill No. 294, 73rd General Assembly, known as the "State Records Act" did not apply to the University of Missouri because of our feeling that this act would interfere with the constitutional power of the Curators to "govern" the affairs of the University.

Since we have been consistently of the view that Article IX, Section 9(a) of the Constitution vests the power to govern the University of Missouri in the Board of Curators thereof and that the legislature is without authority to interfere, and since this was our precise holding in Opinions No. 156 and 281 with respect to the applicability of the Prevailing Wage Law to the University and its divisions, it is our opinion that the Prevailing Wage Law, as amended in 1969, does not apply to the University of Missouri or any of its divisions.

Yours very truly,

JOHN C. DANFORTH  
Attorney General

Enclosures: Op. No. 156  
4-18-62, Rose

Op. No. 281  
8-24-62, Rose

Op. No. 285  
9-14-65, Kirkpatrick