

APPROPRIATIONS: The provisions of House Bill No. 156.
DIVISION OF WELFARE: 77th General Assembly, providing for
AID TO DEPENDENT CHILDREN: benefit payments to aid to the blind
and House Bill No. 514, 77th General
Assembly, providing for benefits to aid to dependent children are
in effect only until January 1, 1974, and thereafter the provisions
of Senate Bill No. 325, 77th General Assembly, govern.

OPINION NO. 342

November 21, 1973



Mr. Bert Shulimson, Director
Missouri Division of Welfare
Broadway State Office Building
Jefferson City, Missouri 65101

Dear Mr. Shulimson:

This is in response to your request for an opinion from this office as follows:

"The Missouri Division of Welfare under authority of House Bill 156 and Senate Committee Substitute House Bill 514, first regular session, 77th General Assembly increased benefits in the categories of Aid to Dependent Children and Aid to the Blind beginning October 1, 1973.

"Senate Bill 325 passed during the same legislative session to become effective January 1, 1974 or upon the operation date of Title XVI of public law 92-603 establishing the federal program of supplemental security income for the aged, blind and disabled whichever occurs later, sets out specific limits of payments less than those same limits set out the above mentioned two bills.

"House bill 156 applies to section 209.040 RSMo. Senate Committee Substitute for House bill 514 applies to Section 208.150 RSMo. Senate Bill 325 applies to both of the foregoing sections. The question is on and after January 1, 1974 or upon the operation date of public law 92-603 establishing the

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Federal program does the Division of Welfare comply with Senate Bill 325 or continue the level of benefits as set out in House Bill 156 and Senate Committee Substitute for House Bill 514?"

House Bill No. 156, 77th General Assembly, was passed by the Senate on June 5, 1973, and approved by the Governor on June 23, 1973. Section 1 of said bill provides that Section 209.040, Missouri Revised Statutes, Laws of Missouri 1969, is hereby repealed and a new section enacted in lieu thereof to be known as Section 209.040. It provides for a vision test that is necessary for a person to have in order to be eligible for a blind pension and provides for a blind pension of \$110 per month.

Section 209.040, RSMo 1969, provided for a monthly pension of \$90 a month to a person eligible for a blind pension. Section 209.040, RSMo 1969, was repealed and reenacted by House Bill No. 286 in 1971. As reenacted the amount of benefits was increased to \$100 per month. RSMo Supp. 1971, page 215.

House Committee Substitute for Senate Bill No. 325, 77th General Assembly, hereinafter referred to as Senate Bill No. 325, was passed by the Senate on June 13, 1973, and approved by the Governor on July 16, 1973. This act repealed and reenacted numerous sections of Chapters 207 and 209, RSMo 1969, including Section 208.150, RSMo 1969, which determines the amount of aid to dependent children benefits, and Section 209.040, RSMo Supp. 1971, which determines the amount of blind pension, and reenacted new sections bearing the same numbers.

Section 208.150, as reenacted, provides for the amount of monthly benefits payable to or on behalf of needy persons including what is known as aid to dependent children as follows. It provides that the amount of assistance payable to an eligible relative caring for a dependent child shall not exceed \$33 for the needy eligible relative, \$43 for the first child and \$24 for each additional child. The maximum amount of these benefits are the same as were provided in the statute which was repealed.

Section 209.040, as reenacted in Senate Bill No. 325, provides for the vision test in substantially the same language as the repealed section and provides that a person eligible for a blind pension shall be entitled to receive a monthly pension of \$100. It further provides that such pension shall not be paid to any person receiving general relief assistance. The maximum amount of benefits remains the same as were provided in Section 209.040, RSMo Supp. 1971.

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Senate Committee Substitute for House Bill No. 514, 77th General Assembly, hereinafter referred to as House Bill No. 514, was passed by the House on June 14, 1973, and approved by the Governor on June 27, 1973. Section 1 of said act provides that Section 208.150, RSMo 1969, is repealed and a new section enacted in lieu thereof to be known as Section 208.150. Under this act the maximum amount to be paid in aid to dependent children benefits will not exceed \$38 per month for the needy relative, \$48 for the first child, and \$29 for each additional child. This is greater than the benefits provided for in Senate Bill No. 325 for such persons.

Senate Bill No. 325 further provides as follows:

"Section A. Sections 1, 207.010, 207.060, 208.010, 208.015, 208.030, 208.042, 208.060, 208.120, 208.150, 208.160, 208.170, and 209.040 of this act shall become effective January 1, 1974, or upon the operational date of Title XVI of public law 92-603, establishing the federal program of supplemental security income for the aged, blind and disabled, whichever occurs later."

You inquire whether the Division of Welfare should comply with Senate Bill No. 325 or continue the level of benefits as set out in House Bill No. 156 and House Bill No. 514 after the effective date of Senate Bill No. 325, which is January 1, 1974, or the operative date of Title XVI of Public Law 92-603 establishing the federal program of supplemental security income for the aged, blind, and disabled whichever date is later.

The fundamental rule of statutory interpretation is first to seek the intention of the lawmakers and, if possible, to effectuate that intention. The legislative intent should be ascertained from the words used, if possible, and ascribed to the language used its plain and rational meaning. Marty v. State Tax Commission of Missouri, 336 S.W.2d 696 (Mo. 1960).

In State ex rel. Karbe v. Bader, 78 S.W.2d 835 (Mo. banc 1934), the issue before the court involved two separate acts passed at the same legislative session dealing with the same subject matter. Specifically, the question was whether House Bill No. 44, the later enacted, superseded, repealed or surplanted the earlier and apparently inconsistent enactment, Senate Bill No. 94.

Senate Bill No. 94, commonly known as the Jones-Munger Law, was passed March 25, 1933, signed by the Governor on April 7, 1933, and became effective July 24, 1933. Laws of Missouri 1933, page 425.

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It expressly repealed numerous sections of the statutes including Section 9952, RSMo 1929, relating to the collection of delinquent and back taxes. The method of foreclosure of state liens for delinquent taxes, which for many years had been by suit in a court of competent jurisdiction, was radically changed, and Section 9925, which authorized such suits was expressly repealed and a new scheme for foreclosure by sale by the collector was provided for without suit.

House Bill No. 44 was passed with an emergency clause on April 1, 1933, approved by the Governor on April 28, 1933. Laws of Missouri 1933, page 465. It expressly repeals Section 9952, RSMo 1929, and enacted a new section to be known as Section 9952, which provided for the collection of back taxes by suit in a court of competent jurisdiction. It further provided for the employment of necessary attorneys. With the exception of the provision regarding attorneys, Section 9952, RSMo 1929, remained in all other respects unchanged. The question before the court was whether House Bill No. 44, which was enacted at the same legislative session, should govern over Senate Bill No. 94, due to the fact it was later enacted by the same legislature. In arriving at its decision the court stated that where two acts are passed at the same session of the legislature, relating to the same subject matter, as here, they are in pari materia, and to arrive at the true legislative intent, they must be construed together. In holding that Senate Bill No. 94 should govern, the court stated, l.c. 839-840:

"There was nothing in House Bill No. 44 in the nature of new legislation. Its sole object was to amend section 9952 (the effective law at the time House Bill No. 44 was introduced) in so far as it related to back tax attorneys in counties of a designated population. It seems obvious, and we hold that the nominal re-enactment of section 9952 by House Bill No. 44 was not intended to, nor did it have the effect of impliedly repealing or otherwise disturbing the Jones-Munger Act. We think that by attaching an emergency clause to House Bill No. 44, the Legislature intended that it should be operative only until such time as Senate Bill No. 94 took effect, the latter measure not having received executive approval at the time the former was passed. But we must hold bad, as the parties tacitly concede, the emergency clause just mentioned because invalid on its face and, therefore, wholly ineffectual to

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make House Bill No. 44 operative upon being signed by the Governor, and so upon the happening of the latter event, House Bill No. 44 became nugatory, and as if never passed. This ruling is in harmony with controlling canons of construction, and, as we believe, causes the true legislative intent to speak."
(emphasis added)

Senate Bill No. 325, although it was passed on June 13, 1973, and approved by the Governor on July 16, 1973, expressly provides that it does not become effective before January 1, 1974, which is subsequent to the effective dates of House Bill No. 156 and House Bill No. 514. A statute which is to take effect in the future speaks from the date it becomes effective and not from the date of its enactment. State ex rel. Brunjes v. Bockelman, 240 S.W. 209 (Mo. banc 1922).

It is our opinion that the provisions of Senate Bill No. 325, 77th General Assembly, should govern after it becomes effective on January 1, 1974, or upon the operational date of Title XVI of Public Law 92-603, whichever occurs later. Although House Bill No. 514 was passed by the legislature and signed by the Governor after Senate Bill No. 325 had been passed by the legislature and signed by the Governor, it was intended by the legislature that Senate Bill No. 325, which covered these same subjects, would govern after it became effective on January 1, 1974, as provided in Section A. House Bill No. 156 and House Bill No. 514 were intended to apply only from the date of their enactment until January 1, 1974, when Senate Bill No. 325 becomes effective and the federal assistance program also becomes effective.

CONCLUSION

It is the opinion of this office that the provisions of House Bill No. 156, 77th General Assembly, providing for benefit payments to aid to the blind and House Bill No. 514, 77th General Assembly, providing for benefits to aid to dependent children are in effect only until January 1, 1974, and thereafter the provisions of Senate Bill No. 325, 77th General Assembly, govern.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Yours very truly,



JOHN C. DANFORTH
Attorney General