

PUBLIC WORKS: Missouri State Board of Training Schools is authorized to negotiate contracts for the erection of new buildings.

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Honorable Francis Smith, Member  
Missouri State Board of Training Schools  
Tootle Building  
St. Joseph, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this office, reading as follows:

"Under date of August 2 your office issued an opinion that neither the Division of Procurement nor the State Purchasing Agent are charged with the negotiation of contracts for the erection of new buildings nor for the repair or alteration of existing state structures.

"In view of that situation, can your office advise our board whether or not in your opinion our board can negotiate these contracts, or what state authority will assume that responsibility. I refer particularly to a building program which is under consideration, particularly the Missouri Training School for Boys at Boonville and also the Girls School at Chillicothe. We are entrusted with the expenditure of large sums from the post war reserve funds and are at the present time considering immediate advertising for bids for the performance of such work."

The Missouri State Board of Training Schools has been created under the provisions of Section 38 of Article IV of the Constitution of Missouri, 1945. It reads as follows:

"All state training schools and industrial homes for boys and girls shall be classified as educational institutions and shall be in charge of a board of six trustees, three from each of the two major political

parties, appointed by the governor by and with the advice and consent of the senate. All employees of the board shall be selected and removed as provided for employees in the state eleemosynary institutions."

Subsequent to the adoption of the above quoted constitutional provision, the General Assembly of Missouri enacted Section 8992.20, Mo. R.S.A., appearing Laws of Missouri, 1945, page 723, Section 20. This statute reads as follows:

"There is hereby created and established a state board of training schools which shall have charge and control of all training schools and industrial homes for boys and girls of this state: specifically, the training school for boys at Boonville; the industrial home for girls at Chillicothe, which hereafter shall be known as the training school for girls; and the industrial home for Negro girls at Tipton, which hereafter shall be known as the training school for Negro girls, together with all branches and divisions thereof; and over all institutions for correctional training of juveniles which may hereafter be created in this state; which schools are hereby classified as educational institutions and recognized to have as their purpose the special correctional training, the education and the moral rehabilitation and guidance of juvenile offenders which any court of proper jurisdiction may assign to such institutions. In relation to any of the above named juvenile training schools, whenever the term commission of penal institutions is used in any act, it shall hereafter be understood to mean the state board of training schools."

(Underscoring ours.)

We have emphasized the last sentence of the quoted statute for the reason that other statutory enactments incorporated therein by such reference are pertinent to the subject matter of your inquiry. We refer particularly to Section 8987, R. S. Mo. 1939, reading in part as follows:

" \* \* \* The Commission is authorized to erect on such lands when leased or purchased such buildings for hospitals, dormitories, reformatories and other structures or improvements as it may with the approval of the Governor, deem necessary and proper for the welfare of the prisoners. \* \* \* "

This statutory delegation of authority to the Commission of the Department of Penal Institutions has been transferred to the State Board of Training Schools, under the emphasized portion of Section 8992.20, Mo. R.S.A. We think that such delegation of authority, being clear and unambiguous in its terms, is sufficient authorization to the State Board of Training Schools to negotiate for the erection of new structures or the alteration or repair of existing structures at the several institutions under the control and management of such Board.

It is thought, however, that the State Board of Training Schools must enter into such contracts only after following the appropriate procedure outlined by other statutes relating to advertising, letting of bids, method of payment of contracts, etc., relating to public works. Particularly your attention is directed to paragraph (d) of Section 11008.118, Mo. R.S.A., requiring the approval of the Director of Public Buildings of all such contracts and payments made thereunder.

#### CONCLUSION

In the premises, we are of the opinion that the Missouri State Board of Training Schools is authorized to negotiate and enter into contracts for the erection of new structures or the alteration or repair of existing structures at institutions under the management and control of such board, subject to other statutory requirements respecting the exercise of such authority.

Respectfully submitted,

WILL F. BERRY, JR.  
Assistant Attorney General

APPROVED:

J. E. TAYLOR  
Attorney General

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