

OPINION NO. 72-120

Syllabus:

Amended Substitute House Bill No. 442, which became effective on September 22, 1972, did not remove the printing of the session laws and the appropriation acts from the first class to the third class of state printing as defined by R.C. 125.47.

To: Ted W. Brown, Sec. of State, Columbus, Ohio

By: William J. Brown, Attorney General, December 18, 1972

You have asked my opinion as to whether the printing of the session laws and the appropriation acts, which is required by statute to be done after the conclusion of each session of the General Assembly, falls within the first class, or within the third class, of the statutory provisions for state printing.

The classes of printing for which contracts are to be let by the state are enumerated in R.C. 125.47, which reads as follows:

The printing for the state shall be divided into four classes and each class shall be let in separate contracts as follows:

(A) First Class. Bills for the two houses of the general assembly, resolutions and other matters ordered by either of them to be printed in bill form, general and local laws, joint resolutions;

(B) Second Class. The journals and bulletins of the senate and house of representatives, and reports, communications, and other documents which form part of the journals;

(C) Third Class. Reports, communications, and other documents ordered by the general assembly, or either house thereof, or by the executive department or elective state officers to be printed in pamphlet form or required to be bound, not including the laws, joint resolutions, and journals of the senate and house of representatives;

(D) Fourth Class. Blanks, circulars, and other work for the use of the executive departments, and elective state officers, not including those to be printed in pamphlet form or required to be bound.

The printing for the third and fourth classes may be let in one or more contracts, as the director of finance requires.

Generally speaking, the printing of the acts of the General Assembly is done in three stages: (1) immediately after introduction by a member, the "original bill" is printed in form for consideration by the members of the two houses (R.C. 101.51); (2) after passage and before enrollment in the office of Secretary of State, the bills are printed as "pamphlet laws" for prompt distribution to

the members of the Assembly and to such others as have immediate need for them (R.C. 101.52 and 149.09); and (3) at the close of the session, all laws enacted during its course are delivered by the clerks of the Senate and the House to the Director of the Legislative Service Commission for codification and preparation of an index, and they are then printed in bound volumes as "session laws" to be distributed by the Secretary of State (R.C. 103.13, 103.131 and 149.091). At the same time, the appropriation acts are published by the Secretary of State in separate bound volumes. R.C. 149.092.

Of those sections of the Revised Code to which I have just referred, Sections 149.091 and 149.092 have newly been enacted, and Sections 101.52 and 149.09 have been amended, by Amended Substitute House Bill No. 442, which became effective September 22, 1972.

The intent behind these changes appears to have been to do away with a certain amount of delay and waste which occurred under prior provisions covering printing of the session laws. You state that, in your view, the intent of the General Assembly in Amended Substitute House Bill No. 442 was, among other things, to remove the printing of the session laws from the first class of state printing, which must be let as a single contract, to the third class, under which the various jobs may be let as separate contracts by the Department of Finance, subject to the directions of the particular state department which wishes to have the material printed. R.C. 125.47, 125.48 and 125.51; Opinion No. 5092, Opinions of the Attorney General for 1955.

I agree with your conclusion that the General Assembly, in enacting Amended Substitute House Bill No. 442, intended to eliminate the waste and delay to which you have referred. That seems obvious from the face of the Bill itself. Previously R.C. 103.14 required the Legislative Service Commission to prepare section headings for the session laws, and to submit them to the Secretary of State within 30 days after the Assembly had adjourned sine die. The delay occasioned by this step is no longer present for the new law repeals R.C. 103.14. Furthermore, R.C. 149.09 formerly required that 2000 copies of the session laws and 500 copies of the appropriation acts should be printed and bound. Under the new law that Section has been amended, and it now deals only with the distribution of the pamphlet laws by the Secretary of State during the course of the session. The two new Sections, R.C. 149.091 and 149.092, now provide that a maximum of only 900 copies of the session laws and 300 copies of the appropriation laws shall be published and distributed by the Secretary of State. In addition, R.C. 149.091 specifically provides how the Secretary of State shall distribute over 500 of the 900 bound copies of the session laws. There is, therefore, no longer any great danger of an accumulation of excess copies, and the Secretary of State has it within his power to obviate any further unnecessary accumulation, since he is authorized to publish and distribute only 900 copies of the session laws and 300 copies of the appropriation acts as a maximum.

I cannot, however, agree with your further conclusion that Amended Substitute House Bill No. 442 removed the printing of the session laws and appropriation acts from the first class to the third class of public printing, as provided by R.C. 125.47. That Section directs that all printing of the first class be let by the Department of Finance in a single annual contract, whereas third class printing can be let in as many separate contracts as may be required by the nature of the particular jobs. In Opinion No. 5092, supra, my predecessor said:

It must be remembered that the director of the department of finance acts only as the agent of the various state departments and as such he must be subject to their directions at all times as to the matter which they desire to have printed, and as to the form in which they wish to have it printed. * * *

The interpretation of Amended Substitute House Bill No. 442 which you suggest would, therefore, afford even further protection against waste and delay by removing the printing of the session laws from the first class, and would, as you note, permit additional savings to be realized by opening the bidding to all printers who wish to be considered.

There is no doubt that the General Assembly could have taken this added precaution, but I am unable to find anything in the language of Amended Substitute House Bill No. 442 to indicate that it intended to do so. On the contrary, the failure of the Assembly to alter the specific definition of the third class in R.C. 125.47 convinces me that there was no intent to remove the printing of the session laws from the first class. As already set forth above, that Section describes the third class in the following language:

(C) Third Class. Reports, communications, and other documents ordered by the general assembly, or either house thereof, or by the executive department or elective state officers to be printed in pamphlet form or required to be bound, not including the laws, joint resolutions, and journals of the senate and house of representatives;

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(Emphasis added.)

Consequently, the specific exclusion of the printing of the laws from the third class still remains in effect.

Your letter refers to nothing in the language of Amended Substitute House Bill No. 442 which would lead to a contrary conclusion. The only possibility of such an argument rests on the use of the word "publish" in the new Sections, R.C. 149.091 and 149.092, which now require the Secretary of State to "publish and distribute" the session laws and the appropriation acts, whereas R.C. 149.09, in its previous form, simply required the Secretary to "distribute" the session laws. I can see no merit in this argument, since the Secretary of State has always had the responsibility of publishing the session laws. Former R.C. 111.09 provided that copies of all laws enacted during the session, together with an index,

* * * shall be furnished by the secretary of state to the printer along with instructions concerning the printing of the session laws * * *.

As has already been noted above, Amended Substitute House Bill No. 442 completely repealed R.C. 111.09. The addition of the word "publish" in R.C. 149.091 and 149.092 does nothing more than retain the Secretary's previously existing responsibility for publication of the session laws.

In specific answer to your request it is my opinion, and you are so advised, that Amended Substitute House Bill No. 442, which became effective on September 22, 1972, did not remove the printing of the session laws and the appropriation acts from the first class to the third class of state printing as defined by R.C. 125.47.