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APPROPRIATIONS: Reductions pursuant to Const 1963, art 5, § 20
CONSTITUTION OF MICHIGAN: Art 5, § 20

The governor, with approval of appropriating committees, is required to reduce expenditures authorized by appropriations when actual revenues for a fiscal period fall below revenue estimates on which the appropriations were based.

Where an executive order authorizes reductions for a stated amount for departments and agencies and it is clear that the executive order, as approved by the appropriation committees, intended the reduction to apply to both funds appropriated for operating purposes and funds appropriated for grants to be disbursed through the department, the reduction in the appropriation for the grants is effective.

Opinion No. 5001

April 12, 1976.

Honorable John F. Markes
State Representative
The State Capitol
Lansing, Michigan 48901

You have requested my opinion on the following questions regarding state aid to public libraries:

“Question 1.

“(a) Does the language of Item 5 of Executive Order 1975-12 limit the authorized reductions to funds appropriated for the Department of Education in P.A. 252 of 1975? or

“(b) Does it also authorize reductions in the funds appropriated for state aid to libraries in the grants section of P.A. 252 of 1975?

“Question 2.

“If Executive Order 1975-12 does authorize reductions in the grants section of P.A. 252 of 1975, does the Department of Education in the absence of such an order have authority to reduce the amount appropriated for state aid to libraries?”

Item 5 of Executive Order 1975-12 states:

“Portions of appropriations amounting to \$18,669,678 for departments and agencies contained in the following public acts are hereby transferred to the unappropriated balance of the general fund as of June 30, 1976, *in the amounts derived by the percentages indicated.* Specific items for transfer as identified by the affected department director shall be submitted for approval by the Director, Department of Management and Budget.

| <i>Act No. P.A. 1975</i> | <i>Department</i> | <i>Reduction Percentage</i> |
|------------------------------|--|---------------------------------|
| 255 | Executive Office | 4.0% |
| | Attorney General | 4.0 |
| | State | 4.0 |
| | Management and Budget | 4.0 |
| | Treasury | 2.5 |
| | Civil Service | 4.0 |
| | Civil Rights | 4.0 |
| 252 | Education | 4.0 |
| 259 | Public Health | 4.0 |
| 257 | Mental Health | 2.5 |
| 241 | Social Services—Director's Office, Administrative Support Services, Data Center, Administrative Support Services for Social Services and Licensing, Self Support Services (excluding Day Care), Basic Social Services (excluding Adult Home Help, Family Home Help, and Transportation), Residential Care for Children and Youth, and Juvenile and Child Care Services | 2.5 |
| 256 | Military Affairs | 4.0 |
| | State Police | 4.0 |
| 254 | Commerce | 1.5 |
| | Labor | 1.5 |
| | Licensing and Regulation | 1.5 |
| 260 | Natural Resources | 4.0 |
| 262 | Agriculture | 4.0" |

(emphasis added)

The total amount of the Item 5 reduction was \$18,669,678.00. Included in this reduction was a reduction of \$1,134,900, or 4%, in the \$28,372,506 appropriated to the Department of Education by 1975 PA 252. No distinction was made between those funds appropriated to the department for operating purposes and funds appropriated for the grants for disbursement to individuals and institutions through the department. The exclusion of the grants in 1975 PA 252 from the reduction process would have resulted in an actual decrease of \$697,099 to 1975 PA 252. The effect of exempting the grants in 1975 PA 252 from Executive Order 1975-12 would have reduced the Item 5 figure to \$18,231,877.00. Thus, it is clear that the Governor and the appropriations committees intended to affect the total appropriation contained in 1975 PA 252.

It should also be noted that Const 1963, art 5, § 20 states in part, "The governor may not reduce expenditures of the legislative or judicial branches or from funds constitutionally dedicated for specific purposes." In OAG No. 4917, 1975-76 (December 24, 1975) p . . ., which discusses the con-

stitutionality of executive order reductions in state school aid, it was stated, ". . . [T]he only appropriations immune from the executive order reduction process are those set forth in the last sentence of Const 1963, art 5, § 20."

The grant to libraries in 1975 PA 252, § 1, is pursuant to the legislative enactment of the State Aid to Public Libraries Act, 1965 PA 286, MCLA 397.501 *et seq*; MSA 15.1791(101). It is not a constitutional grant, and therefore, has no greater immunity from executive order reduction than any other legislative appropriation, from the general fund, which is not in the protected class established by Const 1963, art 5, § 20.

Section 12 of 1975 PA 252 sets forth the procedures to be followed in the event that a reduction in expenditures is necessary. Again, no special immunity is given to grants as opposed to funds appropriated to the Department of Education for operating purposes by 1975 PA 252.

Finally, the State Aid to Public Libraries Act, *supra*, provides for re-allocation of funds in the event the funds appropriated are insufficient to meet the disbursement formulas contained in the act. MCLA 397.519; MSA 15.1791(119). By providing for such an adjustment, the legislature has anticipated the possibility that there would be insufficient funds, which is in effect the end result of an executive order reduction, and provided for that contingency.

Therefore, in answer to your first question, it is my opinion that, in implementing the executive order reduction contained in Item 5 of Executive Order 1975-12, the Department of Education may reduce the library funds appropriated in the grant section of 1975 PA 252.

In response to your second question, there is no authority in the Department of Education to reduce the amount appropriated for libraries in 1975 PA 252 in the absence of an executive order reduction. Const 1963, art 9, § 17 states: "No money shall be paid out of the state treasury except in pursuance of appropriations made by law." See also *Detroit Board of Education v Superintendent of Public Instruction*, 319 Mich 436, 453; 29 NW2d 902, 910 (1947). The State Aid to Public Libraries Act, *supra*, provides the method and formula whereby the libraries receive those funds appropriated by the legislature. The Department of Education is required to follow the statutory procedure, making only those adjustments allowed by MCLA 397.519; MSA 5.1791(119).

Thus, it is my opinion that Executive Order 1975-12 applies to the grant to public libraries in 1975 PA 252. However, absent an executive order reduction, the Department of Education is required to administer and disburse such grant for public libraries in the manner prescribed by the State Aid to Public Libraries Act, *supra*.

FRANK J. KELLEY,
Attorney General.