by the Department of Civil Service and the recommendation of employees for promotion.

However, since these personnel functions of appointing authorities, if they are to be performed at all, must be financed by legislative appropriation in addition to that constitutionally appropriated to the Civil Service Commission, the legislature has the discretion to determine how many of these activities are to be carried out, at what level, and which activities are to be eliminated completely by the various state agencies.

FRANK J. KELLEY,
Attorney General.

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CONSTITUTION OF MICHIGAN: Art 4, § 25.

TAXATION: Cooperation of state licensing agencies in collecting taxes.

There is no violation of the constitutional provision requiring that a section or sections of an act altered or amended be reenacted and published at length, Const 1963, art 4, § 25, where the later-enacted statute is complete in itself and does not confuse or mislead.

A provision in the Single Business Tax Act authorizing the revenue commissioner to utilize the services of other agencies of state government, including the withholding of state licenses or permits, is a statutory provision that is complete in itself and does not confuse or mislead and, therefore, does not violate Const 1963, art 4, § 25.

Opinion No. 4991 September 16, 1976.

Ms. Beverly J. Clark, Director
Department of Licensing and Regulation
1033 South Washington Avenue
Lansing, Michigan 48926

You have inquired:

> "Does Section 92 of 1975 PA 228 violate Article IV, sections 25 and 36 of the Michigan Constitution in that it purports to revise, alter or amend the various licensing acts and attempts to generally revise laws by requiring a department, upon request, to withhold a license otherwise required to be issued?"

The Single Business Tax Act, 1975 PA 228; MCLA 208.1 *et seq;* MSA 7.558(1) *et seq,* is an act intended to implement a comprehensive tax on all business entities in the State of Michigan. The act accomplishes what its title indicates it intends—provides one single tax form for business entities. 1975 PA 228, *supra,* § 92 provides:

> "The commissioner may utilize the services, information, or records of any other department or agency of the state government, including the withholding of state licenses or permits, in the performance of its duties hereunder, and other departments or agencies of the state gov-

ernment shall furnish the services, information, or records, and withhold issuance of licenses or permits, upon the request of the department."

1975 PA 228, § 92, *supra,* imposes an additional requirement for obtaining and retaining licensure under the various licensing acts that is not included in any licensing act. By requiring a licensing board to comply with the commissioner's request, 1975 PA 228, § 92, *supra,* affects the power and authority of the various boards to issue, deny, revoke or suspend the licenses which they are charged with administering.[1]

The constitutional issue, therefore, is whether these additional burdens and duties are alterations or amendments prohibited by Const 1963, art 4, § 25, which provides:

> "No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length."

The Michigan courts have held that a statute violates Const 1963, art 4, § 25, *supra,* if it attempts to alter or amend another statute without republishing that statute at length unless the statute falls into the "amendment by implication" exception. *Alan* v *Wayne County,* 388 Mich 210, 270; 200 NW2d 628, 657 (1972), dealt at length with the question of what would constitute a violation of Const 1963, art 4, § 25, *supra.* The court in *Alan* noted that certain types of legislative enactments would not be amendments and consequently would not come within the purview of Const 1963, art 4, § 25, *supra.* The court stated:

> "This is not a case of so-called 'amendment by implication' such as the cases which were considered and held valid in *People* v *Mahaney,* 13 Mich 481, 496 (1865) (transfer of powers from one statute to another is not an 'amendment' requiring republication); *Underwood* v *McDuffee,* 15 Mich 361, 366 (1867) (overall revision of statute and system of references adding new sections with the reference number of an old one is permissible where new section is not foreign to subject indicated by title of law in which inserted); *People v Wands,* 23 Mich 384, 388-389 (1871) (an amending act which properly amends two sections of law may have the effect of amending by implication other parts of the same body of law); *Swartwout v Mich Airline R Co,* 24 Mich 388, 399 (1872) (following *Wands* in holding that a new statute which adds a new section to a body of law may amend by implication other sections of the same body of law); and a continuing line of cases not cited here."

The court then laid down a definitive statement of the test it would use to determine which statutes come within the prohibition in Const 1963, art 4, § 25, *supra*:

> ". . . we hold that in the absence of specific legislative intent to amend or alter other statutes we will treat them as in existence and

[1] It should, however, be noted that 1969 PA 306; MCLA 24.201 *et seq;* MSA 3.560(101) *et seq,* requires that certain procedures be followed.

interpret them as they are written unaffected by subsequent statutes. If, on the other hand, it *is* intended to amend or alter those other statutes revealed in this search, then it should be stated specifically and those statutes must be amended or altered directly and republished as contemplated by Const 1963, art 4, § 25.

"There is nothing complicated, burdensome, unreasonable or obscure about what we say here today. If a bill under consideration is intended whether directly or indirectly to *revise, alter, or amend* the operation of previous statutes, then the constitution, unless and until appropriately amended, requires that the Legislature do in fact what it intends to do by operation." 388 Mich 210, 285; 200 NW2d 628, 665 (1972)

A more recent opinion dealing with the application of Const 1963, art 4, § 25, *supra,* is *Advisory Opinion re Constitutionality of 1972 PA 294,* 389 Mich 441, 476; 208 NW2d 469, 479 (1973), dealing with the constitutionality of the No-Fault Insurance Law. The court held that the No-Fault Insurance Law did not violate the Michigan constitution by amending another statute without republishing it, stating:

"The so-called 'No-Fault Insurance' amendment modifies the title of and adds a chapter to the Insurance Code. It is a complete act and does not confuse or mislead, but publishes in one act for all the world to see what it purports to do."

Clearly, the advisory opinion on no-fault insurance is in accord with the *Alan* decision, *supra.* The No-Fault Insurance Law comes within the exceptions referring to amendments by implication listed in the *Alan* decision. Recently, in OAG 1976-1977, No. 4955, p ... (February 19, 1976), I was called upon to interpret the tests laid down in *Alan, supra,* and found that, although the statute in question affected an existing act, the statute was complete in itself and did not confuse or mislead; therefore, it did not violate Const 1963, art 4, § 25, *supra.*

1975 PA 228, *supra,* is also an act complete in itself. It establishes a uniform system of taxation for all businesses in the State of Michigan. 1975 PA 228, § 92, *supra,* does not specifically amend existing licensing statutes because those statutes are silent on the requirement of compliance with 1975 PA 228, *supra;* therefore, 1975 PA 228, § 92, *supra,* does not violate Const 1963, art 4, § 25.

FRANK J. KELLEY,
Attorney General.