

I note that the Corporation Tax Appeal Board will be abolished on December 31, 1977, by 1975 PA 230, which repealed the corporate franchise tax. Such abolition is logical in view of the extinction of subject matter over which it could exercise jurisdiction. I, also, note that the State Board of Tax Appeals, created by section 8 of the Revenue Act, MCLA 205.8; MSA 7.657(8), and charged with certain functions and duties by sections 7 and 9, MCLA 205.7, 205.9; MSA 7.657(7), 7.657(9), of that act, remains the only administrative tribunal to review assessments, decisions and orders of the Revenue Division, Department of Treasury.

I am, therefore, of the opinion that the legislature did not intend to abolish the State Board of Tax Appeals unless its jurisdiction was effectively transferred to another administrative or quasi-judicial body. Consequently, I conclude that 1973 PA 186, § 79, as originally enacted and as amended by 1976 PA 37 is invalid in its entirety and that it does not abolish the State Board of Tax Appeals.

FRANK J. KELLEY,  
*Attorney General.*

76 | 215.1

**COLLEGES AND UNIVERSITIES:** Health and safety statutes.

**STATUTES:** Colleges and universities subject to statutes enacted to protect the public health and safety.

**BOILERS:** Colleges and universities subject to the Michigan Boiler Act.

State universities and colleges are required to comply with the provisions of a statute enacted to protect the public health and safety. State colleges and universities are subject to the provision of the Michigan Boiler Act.

Opinion No. 3662

December 15, 1976.

Mr. Keith Molin, Director  
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My opinion has been requested on whether the provisions of the Michigan Boiler Act, 1965 PA 290; MCLA 408.751 *et seq*; MSA 17.137(1) *et seq*, authorize Department of Labor boiler inspectors to perform compliance inspections on boilers on the campuses of Michigan baccalaureate institutions.

Your question involves the relationship between the constitutional status of universities and the statutory authority of the Department of Labor, as provided under 1965 PA 290, *supra*.

Const 1963, art 8, § 5 provides:

"The regents of the University of Michigan and their successors in office shall constitute a body corporate. . . . Each board shall have

general supervision of its institution and the control and direction of all expenditures from the institution's funds. . . ."

This same provision is applicable to all baccalaureate degree granting state institutions. Const 1963, art 8, §§ 5 and 6.

This provision has historically and consistently been interpreted by the Michigan Supreme Court as affording to the universities autonomous control of the educational affairs of the university. *Regents of the University of Michigan v State of Michigan*, 395 Mich 52; 235 NW2d 1 (1975), *State Board of Agriculture v Auditor General*, 226 Mich 417; 197 NW 160 (1924).

However, in *Regents of the University of Michigan v Employment Relations Commission*, 389 Mich 96; 204 NW2d 218 (1973), the court held that the autonomous control of the university over its own affairs does not exclude the university from the requirements of the Public Employees Relations Act (PERA). In *Regents v MERC*, *supra*, the court cited the following statement of *Branum v Board of Regents of the University of Michigan*, 5 Mich App 134; 145 NW2d 860 (1966):

"In spite of its independence, the board of regents remains a part of the government of the State of Michigan.

"\* \* \*

"It is the opinion of this court that the legislature can validly exercise its police power for the welfare of the people of this State, and a constitutional corporation such as the board of the regents of the University of Michigan can lawfully be affected thereby. The University of Michigan is an independent branch of the government of the State of Michigan, but it is not an island. Within the confines of the operation and the allocation of funds of the University, it is supreme. Without these confines, however, there is no reason to allow the regents to use their independence to thwart the clearly established public policy of the people of Michigan." 5 Mich App 134, 138-139; 145 NW2d 860, 862.

Thus, the Supreme Court has recognized that the autonomy of the universities may yield to police power laws aimed at protecting health and safety of the public.

Although it is clear that the constitution and cases interpreting its provisions grant state universities independent control of educational policies and expenditures, the universities are subject to the same health and safety regulations as members of the general public. As stated in 16 CJS, Con Law, § 175a, p 891-894:

"The police power is a governmental function, an inherent attribute of sovereignty, and the greatest and most powerful attribute of government. It was born with civilized government, and was possessed by every state before the union was formed. Although the basis of the police power lies in the constitution which regards the public welfare, safety and health of the citizens of the state, and although it may be given to the people of the state by the constitution, the power exists without any reservation in the constitution, being founded on the duty

of the state to protect its citizens and provide for the safety and good order of society."

Therefore, it is my opinion that state colleges and universities are subject to the provisions of 1965 PA 290, *supra*.

FRANK J. KELLEY,  
*Attorney General.*

76/215.2

**COUNTIES:** Audit of accounts.

**ACCOUNTS AND ACCOUNTING:** Audits of county accounts.

**STATE TREASURER:** Audits of county accounts.

The state treasurer has the duty to formulate a uniform system of accounts for counties and the responsibility of auditing these accounts.

The state treasurer may arrange for performance of audits of county accounts by state personnel or by a private CPA firm on an independent contractor basis in accordance with civil service rules for the employment of independent contractors.

Opinion No. 5139

December 15, 1976.

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You have requested my opinion on the following question:

May a county engage a CPA firm to perform the yearly state audit of county accounts required by the constitution and statutes?

It should first be noted that the predecessor to the current State Constitution, Const 1908, art 10, § 18 provided:

"The legislature shall provide by law for the keeping of accounts by all state officials, boards and institutions, and by all county officials; and shall also provide for the supervision and audits thereof by competent state authority and for uniform reports of all public accounts to such authority. Such systems of account shall provide for accurate records of all financial and other transactions and for checks upon all receipts and disbursements of all such officials, boards and institutions; and shall be uniform for all similar boards, institutions and county officials. All public accounts and the audit thereof shall be public records and open to inspection."

The parallel provision in the current Constitution, Const 1963, art 9, § 21 provides: