

66/223.1

CONSTITUTIONAL LAW: Titles to statutes.

STATUTES: Titles.

ARMORIES: Rental of.

Section 19 of Act 263, PA 1966, which purports to place restrictions upon the lease of real estate buildings or buildings of the various national guard armories contains an object which is not expressed in the title to the act and serves to make the act embrace more than one object contrary to the constitution. Section 19 of Act 263, PA 1966 is therefore unconstitutional.

No. 4575

December 23, 1966.

Brig. Gen. Carson R. Neifert
The Quartermaster General
Department of Military Affairs
Lansing, Michigan

You have requested my opinion on the following questions:

- "1. Does Section 19 of Act 263, PA 1966 apply to existing leases at our armories?
- "2. How many publication must we advertise in?
- "3. How long should the advertising period be?
- "4. What do we advertise? (i.e. vacant lot—9 acres—please submit purpose, proposed rate and period of time desired.)
- "5. Do we have to move our present renter off before we advertise?
- "6. If the answer to 5 is negative, do we make the date of effect on the new contract thirty days after bid opening to allow present renter to move?
- "7. How long a rental term are we allowed to accept?
- "8. If the bidder is other than auto storage what is a fair price?
- "9. Are sales of any type permitted? (This includes in the armory as well as on the premises.)"

Act 263, PA 1966, effective July 12, 1966 makes appropriations for certain purposes. The title to the act reads:

"AN ACT to make appropriations for the department of state police, the department of military affairs, and for various state departments and certain state purposes related to public safety and defense for the fiscal year ending June 30, 1967; to provide for the expenditure of such appropriations; and to provide for the disposition of fees and other income received by said agencies."

Section 19 of the act provides:

"Real estate or buildings of the various National Guard armories in the state shall not be leased for a period in excess of 15 days without advertising the availability of such property for lease and the acceptance of bids for such rental. The rental of the property shall be awarded to the highest bidder, provided the bid is consistent with the economic value of the rental property."

Article IV, Section 24 of the Michigan Constitution of 1963 provides:

"No law shall embrace more than one subject, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title."

The object of the legislature in the enactment of Act 263, PA 1966, as expressed in its title, is to make appropriations for various state departments, to provide for the expenditure of such appropriations and to provide for the disposition of fees and other income received by said state agencies.

The Michigan Supreme Court has held in *Continental Motors Corporation v. Township of Muskegon*, 376 Mich 170 (1965), in construing a comparable constitutional provision, that the title of the legislative act must give notice to legislators and others interested of the object of the law thereby assuring them that only matters germane to the object as expressed in the title will be enacted into law.

Nothing in the title to Act 263, PA 1966 would so much as suggest that the procedures for leasing of the real estate or buildings of the various national guard armories would be found in the act. *Knott v. City of Flint*, 363 Mich 483 (1961); *Rohan v. Detroit Racing Association*, 314 Mich 326 (1946).

It must follow that Act 263, PA 1966 embraces more than one object and it contains an object which is not expressed in its title. It is the opinion of the Attorney General that Section 19 of Act 263, PA 1966 is unconstitutional in violation of Article IV, Section 24 of the Michigan Constitution of 1963.

Because Act 263, PA 1966 makes appropriations for the department of state police, the department of military affairs and various other state departments, it is abundantly clear that the legislature would have enacted Act 263, PA 1966 without Sec. 19 made a part thereof. *Mulhern v. Kent Circuit Judge*, 111 Mich 528 (1897); *Brown v. Judge of Superior Court*, 145 Mich 413 (1906); OAG 1963-64, p. 79.

It must follow that the lawful portions of Act 263, PA 1966, with Sec. 19 deleted, are valid.

Since the questions which you have asked are premised upon the application of Sec. 19 of Act 263, PA 1966 to the board of control of armories, no purpose would be served in an interpretation of Sec. 19.

While neither the board of control of the armory or military board is bound by Sec. 19 of Act 263, PA 1966 because of the reason of its constitutionality as ruled herein, the state military board may pursuant to authority vested in it by Sec. 72 of Act 84, PA 1909,¹ being CL 1948

§ 3272; MSA 1961 Rev Vol § 4.662, prescribe regulations to be observed by boards of control for the renting of armories to outside parties for temporary purposes. Such regulations may contain the requirement that before an armory is rented that bids be taken based upon published notice

¹ Section 72 of Act 84, PA 1909, was last amended, not in pertinent part hereto, by Act 197, PA 1966, effective March 10, 1967.

in a newspaper or general circulation in the area where the armory is located, describing the facilities to be rented and the time and place for taking the bids therefor.

FRANK J. KELLEY,
Attorney General.

66/227.2

CITIES AND VILLAGES: Confinement of prisoners.

A city or village must meet the expense of confining persons in county jails charged with or convicted of violations of city or village ordinances.

No. 4509

December 27, 1966.

Mr. William F. Delhey
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Ann Arbor, Michigan

You have asked whether a city or village is liable to the county for the expense of confining in the county jail persons charged with or convicted of violating city or village ordinances.

As you pointed out it is clear that as to village ordinance violations the expenses involved for lodging prisoners in the county jail are to be paid by the village. The specific authority is found in Section 8, Chapter VI, Act 3, PA 1895, known as the general villages act:

"Every village shall be allowed the use of the jail of the county in which it is located; for the confinement of all persons liable to imprisonment under the ordinances thereof, or under any of the provisions of this act; and the sheriff, or other keeper of such jail, or other place of confinement or imprisonment, shall receive and safely keep any person committed thereto as aforesaid, until lawfully discharged. In all cases of imprisonment for breaches of the penal laws of this state, such receiving and keeping in such jail shall be at the expense of the county in which the village is located; in all other cases it shall be at the expense of the village."¹

However, as you also pointed out, as to fourth class cities the statute pertinent to the use of the county jail by such cities contains no provision with respect to payment. That statute, Section 8, Chapter X, Act 215, PA 1895,² provides as follows:

"Every city shall be allowed the use of the jail of the county in which it is located, for the confinement of all persons liable to imprisonment under the ordinances thereof, or under any of the provisions of this act; and any person so liable to imprisonment may be sentenced to, and committed to imprisonment, in such county jail or in the city prison, or other place of confinement provided by the city, or authorized by law, and the sheriff or other keeper of such jail, or

¹ CL 1948 § 66.8; MSA 1961 Rev Vol § 5.1278.

² CL 1948 § 90.8; MSA 1949 Rev Vol § 5.1729.