to fund educational programs required by state law, such as mandatory special education,[8] such result is not contrary to law.

Pursuant to Const 1963, art 5, § 20, the Governor may, with the approval of the appropriating committees, reduce state school aid appropriations in the Bursley Act, *supra*, in a manner that has the effect of requiring school districts to use locally raised property tax revenues to fund educational programs required by state law.

In summary, the current economic conditions have resulted in a decrease in anticipated state revenues. The Governor, with the approval of the House and Senate appropriations committees, must, therefore, reduce expenditures authorized by appropriations to preclude deficit spending as required by Const 1963, art 5, § 20. In the executive order reduction process, the Governor and the appropriations committees have considerable discretion in making such reductions with the exception of those appropriations immune from reduction by the last sentence of Const 1963, art 5, § 20. This opinion deals with the legal questions raised herein concerning reduction in state school aid funds appropriated by the Bursley Act, *supra*. The wisdom of any particular executive order reduction is left to the sound discretion of the Governor and the appropriations committees under Const 1963, art 5, § 20.

FRANK J. KELLEY,
Attorney General.

760107.7

CONSTITUTIONAL LAW: Titles to Statutes

LIQUOR CONTROL COMMISSION: Issuances of Licenses

1975 PA 254, § 26, which imposes the duty on the Liquor Control Commission to make a survey of the Upper Peninsula relative to the need of additional public licenses for the sale of alcoholic liquor for consumption on the premises and provides that the Commission may issue additional licenses is unconstitutional as violative of Const 1963, art 4, § 24.

Opinion No. 4907 January 7, 1976.

Mr. Stanley G. Thayer, Chairman
Michigan Liquor Control Commission
506 South Hosmer
Lansing, Michigan 48904

At a meeting of the Liquor Control Commission a resolution was adopted to seek my opinion as to the constitutionality of 1975 PA 254, § 26.

That section reads:

> "In addition to the requirements and duties of Act No. 8 of the Public Acts of the Extra Session of 1933, as amended, being sections 436.1 to 436.58 of the Michigan Compiled Laws the liquor control

[8] MCLA 340.771a; MSA 15.3771(1).

commission shall make a survey of the Upper Peninsula relative to the need of additional public licenses for the sale of alcoholic liquor for consumption on the premises and the commission, in its discretion and with the approval of the local governing unit, may issue additional licenses for a 1-year period ending June 30, 1976."

Please be advised I am of the opinion that 1975 PA 254, § 26, is unconstitutional for the reason that 1975 PA 254, § 26, is in conflict with the provisions of Const 1963, art 4, § 24, which, in pertinent part, provides:

"No law shall embrace more than one object, which shall be expressed in its title. * * *."

The purpose of such a provision is plain. It is to require that the title shall give notice to the legislators and those affected thereby of the object of the law with the assurance that only matters germane to the object are set forth therein.

"* * * The test to be applied is whether the language of the title is sufficient to give notice of the general subject of the legislative act and the interests likely to be affected thereby. * * *."

People v *Wohlford,* 226 Mich 166, 168; 197 NW 558 (1924).

The object of the legislature as specified in the title of 1975 PA 254 is to make appropriations for the Department of Commerce, the Department of Labor, and the Department of Licensing and Regulation and certain other state purposes for the fiscal year ending June 30, 1976; to provide for the expenditure of such appropriations; and to provide for the disposition of fees and other income received by the state agencies.

The pertinent portion of the language of Const 1963, art 4, § 24, appeared in Const 1908, art 5, § 21, and has been considered by the Supreme Court in a number of cases. *Rohan* v *Detroit Racing Association,* 314 Mich 326, 353; 22 NW2d 433 444 (1946); *Knott* v *City of Flint,* 363 Mich 483, 497; 109 NW2d 908, 914 (1961).

There is absent any expression or implication in the language of the title to 1975 PA 254 which is indicative of the purpose to impose licensing duties on the Liquor Control Commission or to vest it with discretion in respect to licensing.

1933 PA 8, Extra Session, § 17; MCLA 436.1 *et seq;* MSA 18.971 *et seq,* as well as certain other sections of that act, sets forth provisions with reference to the issuance of licenses.

I am therefore of the opinion that 1975 PA 254, § 26, is unconstitutional for the reason that the act embraces more than one object and contains an object which is not expressed in its title and is in conflict with the provisions of Const 1963, art 4, § 24.

Since 1975 PA 254 makes appropriations for the Department of Commerce, the Department of Labor, and the Department of Licensing and Regulation and certain other state purposes for the fiscal year ending June 30, 1976, it is plain that the legislature would have enacted the same without 1975 PA 254, § 26, being a part thereof. *Mulhern* v *Kent Circuit Judge,* 111 Mich 528; 70 NW 15 (1897). Accordingly, other provisions of

1975 PA 254 are therefore valid for the reason that the said provisions are capable of being carried out without reference to 1975 PA 254, § 26. *Rohan* v *Detroit Racing Association, supra.*

FRANK J. KELLEY,
Attorney General.

760108.2

COUNTIES: Agent for title insurance company

A county may not act as an agent for a title insurance company where title insurance is available from a proprietary company in the area.

Opinion No. 4909 January 8, 1976.

Mr. David A. Dimmers
Barry County Prosecutor
220 South Broadway
Hastings, Michigan 49058

You have inquired as to whether a county may sell title insurance as an agent for a title insurance company in competition with an existing proprietary company in the same area.

In *Toebe* v *City of Munising,* 282 Mich 1, 15-16; 275 NW 744 (1937), the Michigan Supreme Court outlined the powers which a municipal corporation may properly exercise:

> " 'It is a general and undisputed proposition of law that a *municipal corporation possesses and can exercise the following powers, and no others:* First, those granted in *express words;* second, those *necessarily or fairly implied* in or *incident* to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation,—not simply convenient, but indispensable. Any fair, reasonable, substantial doubt concerning the existence of power is resolved by the courts against the corporation, and the power is denied.' 1 Dillon, Municipal Corporations (5th Ed.), § 237." [Emphasis that of the court]

In *Toebe, supra,* the Court held that a city may not engage in the business of selling coal to the public in direct competition with an existing coal company. Although recognizing that an exception may be made where an emergency exists, the Court concluded:

> "In the case at bar plaintiff desires to engage in a legitimate private business and has a right to be free from the unauthorized proprietary business activity of the municipality." [p 17]

Relying on the *Toebe* decision, a similar conclusion was reached concerning the authority of a county road commission to deal in crushed rock in OAG, 1945-1946, No 0-4329, p 594 (January 25, 1956), and concerning the authority of a city to deal in blacktop material in I OAG, 1957, No 3134, p 511 (November 20, 1957).