



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

JOHN A. LASOTA, JR.
ATTORNEY GENERAL

September 11, 1978

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ARIZONA ATTORNEY GENERAL

Honorable Carolyn Warner
Superintendent
Arizona Department of Education
1535 West Jefferson Street
Phoenix, Arizona 85007

RE: 78-222 (R78-256)

Dear Mrs. Warner:

You have asked whether there is a conflict between Chapter 93 and Chapter 178, Laws 1978, both purportedly amending A.R.S. § 15-302 but having separate effective dates. We do not address the question of whether there is a conflict between these two provisions because we conclude that Chapter 178, Laws 1978 is of no force or effect.

Chapter 93, Laws 1978 was an Act "prescribing when a child is deemed five or six years old for purposes of admission to school"; it contained an emergency clause which made it effective when signed by the Governor on May 26, 1978. Chapter 178, Laws 1978, was an Act "providing for the exclusion of certain children from school; providing that certain children shall be treated as residents of school districts and admitted without payment of tuition." Chapter 178 was enacted on June 4, 1978.

As noted above, Chapters 178 and 93 were intended as amendments to Section 15-302. Because Chapter 93 had become effective on May 26, 1978, Chapter 178 was an amendment to Section 15-302 as amended by Chapter 93. This litany of facts is important because the form in which Chapter 178 was enacted makes it invalid.

Article IV, Pt. 2, § 14 of the Arizona Constitution provides:

cont. . . .

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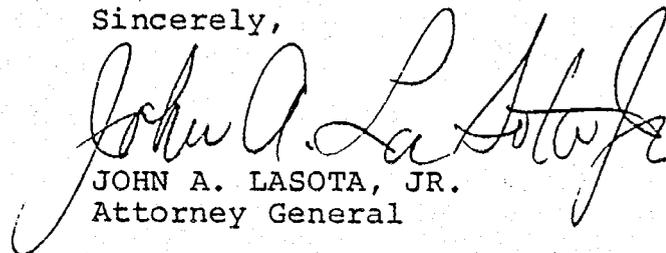
No Act or section thereof shall be revised or amended by mere reference to the title of such Act, but the Act or section as amended shall be set forth and published at full length.

Chapter 178, at the time it was enacted, failed to set forth at full length Section 15-302 as amended by Chapter 93. Chapter 178, therefore, is of no force or effect because it was enacted in violation of our Constitution.

In Atty.Gen.Op. 76-315 (included herein for your perusal), we opined that Chapter 115, Laws 1976, was passed in violation of Art. IV, Pt. 2, § 14 of our Constitution (quoted above) and was therefore "a nullity and of no force or effect." The Legislative Council also considered Chapter 115, Laws 1976, to have been enacted in violation of Art. IV, Pt. 2, § 14 of the Arizona Constitution, and legislation was enacted in the 1977 Legislature to correct the error. See §§ 1 and 2, Chapter 110, Laws 1977. The Council began similar action in regard to Chapter 178. Until the correcting legislation becomes effective, Chapter 178 has no force or effect.

If you have any questions concerning the foregoing, please contact us.

Sincerely,



JOHN A. LASOTA, JR.
Attorney General

JAL/amr

Att.

cc: Sandra A. Day, Director (w/Att.)
Legislative Council



DEPARTMENT OF LAW
OFFICE OF THE

Attorney General

STATE CAPITOL

Phoenix, Arizona 85007

November 26, 1976

BRUCE E. BABBITT
ATTORNEY GENERAL

76-315

Honorable Henry Haws, Chairman
Maricopa County Board of Supervisors
111 South 3rd Avenue
Phoenix, Arizona 85003

Dear Mr. Haws:

Re: R76-418

By letter of October 4, 1976, you referred to this office a request for a legal opinion first submitted on August 20, 1976 to Maricopa County Attorney Donald W. Harris. Mr. Harris' letter in response suggested that you seek an original opinion from this Office. Mr. Harris' letter incorrectly suggests that it should be the role of this Office to set out the parameters of new powers granted Boards of Supervisors by enactment of Laws 1976, Ch. 115 [adding § 11-251(35)]. However, Mr. Harris rightly concluded that his earlier representation of owners of "massage establishments" posed an ethical conflict precluding his answering questions about the effect of the aforementioned legislation. In this circumstance, we are not reluctant to answer your request of October 4.

We have learned that the Legislative Council considers Laws 1976, Ch. 115 (originally Senate Bill 1356) to have been enacted in violation of Art. IV, pt. 2, § 14, of the Arizona Constitution. The Council has responsibility for determining the propriety--in a technical sense--of legislative enactments, and we believe the Council is correct in this conclusion about Ch. 115. As an unconstitutional enactment, Ch. 115 is a nullity and of no force or effect.

The defect in the enactment of S.B. 1356 (the antecedent of Ch. 115) was its failure on the date of enactment (June 24, 1976) to set forth the complete text of A.R.S. § 11-251. The failure was occasioned by the enactment of House Bill 2180 with an emergency clause on May 26, 1976. That enactment is Ch. 56, Laws 1976, and it modified A.R.S. § 11-251. In other words, on May 26, the text of § 11-251 was changed, but S.B. 1356 was not rewritten to conform to that change. Thus, when S.B. 1356 was itself enacted on June 24, it violated Art. IV, pt. 2, § 14, of our Constitution, which states:



Honorable Henry Haws
November 26, 1976
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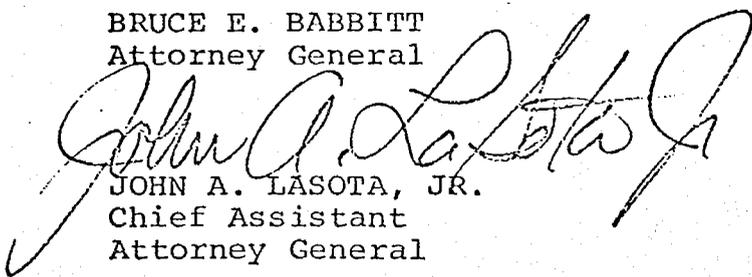
No Act or section therefor shall be revised or amended by mere reference to the title of such Act, but the Act or section as amended shall be set forth and published at full length.

Ms. Sandra Day, Director of the Legislative Council, has prepared a draft bill for introduction in the upcoming session of the 33rd Legislature to correct this error.

I have enclosed the page of that draft pertinent to this opinion (see Section 1). Perhaps you may wish to contact Ms. Day at 271-4236 for further details.

Yours truly,

BRUCE E. BABBITT
Attorney General



JOHN A. LASOTA, JR.
Chief Assistant
Attorney General

JAL:gs
Enc.

cc: Ms. Sandra Day