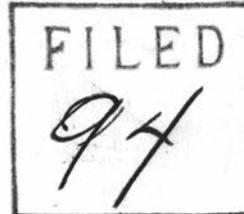


SAVINGS AND LOAN: Effective date of bill providing increase in salary of supervisor and employees.

August 27, 1949



Hon. Clarence Webb, Supervisor
Savings and Loan Division
Jefferson City, Missouri

Dear Sir:

We have received your request for an opinion of this Department concerning the effective date of Section 9, of Senate Committee Substitute for Senate Bill No. 65, which was passed by the 65th General Assembly, with an emergency clause.

Senate Committee Substitute for Senate Bill No. 65 amended several provisions of the Savings and Loan Act, found in Laws of 1945, page 1578. Section 9 of the bill provides an increase in the salary of the Savings and Loan Supervisor from \$4,500.00 to \$6,000.00 per year. The maximum salary, which is determined by the supervisor, payable to the chief examiner is increased from \$3,600.00 to \$4,200.00, to the other examiners, from \$3,000.00 to \$3,600.00, and to other assistants and employees, from \$1,800.00 to \$2,400.00.

Section 4 of the Savings and Loan Act, (Laws of 1945, page 1578) provides that the supervisor of Savings and Loan Associations shall hold office at the pleasure of the Governor. Section 6 provides for the appointment by the supervisor of assistants, examiners, clerks, stenographers and other necessary, employees all of whom hold office at the pleasure of the supervisor.

Section B of Senate Committee Substitute for Senate Bill No. 65 declares an emergency and provides for the bill's becoming effective from and after its passage. Section 29, of Article 3, Constitution 1945, provides that a bill which contains an emergency clause is not subject to the ninety day period as to its effective date. Therefore, this bill, including Section 9,

Hon. Clarence Webb, Supervisor 2.

would become effective immediately upon its approval by the Governor, which approval was given on August 3, 1949, unless by reason of the nature of the provisions of Section 9, that section cannot be regarded as coming within the emergency clause.

In the case of *State ex rel Harvey v. Linville*, 318 Mo. 698, 300 S.W. 1066, the Supreme Court held that a bill in effect providing an increase in the salary of the county superintendent of schools did not deal with such an emergency as the constitutional provisions contemplated and therefore the emergency clause was ineffective to accelerate the effective date of the bill. The bill in that case dealt solely with the computation of the salary of the county superintendent of schools.

The act here in question repeals seventeen sections of the Savings and Loan Act and enacts seventeen new sections in lieu thereof. Only one section, the section about which you have inquired, relates to salaries of personnel of the Savings and Loan Division. The remaining sections deal with various matters relating to the operation of Savings and Loan Associations. The emergency clause (Section B) reads as follows:

"Since the laws relating to the full investment and credit facilities of savings and loan associations of this State are inadequate to allow the resources of such associations to be used to the fullest extent, and there is an immediate and pressing need for additional housing facilities which can be met in part by savings and loan associations, and since it is necessary for the immediate preservation of the public peace, health and safety of the inhabitants of this State, an emergency exists within the meaning of the Constitution and this Act shall be in full force and effect from and after its passage."

The courts of this state have held contrary to the view taken in other states (Ann. 110 A.L.R., 1436) that the determining of the existence of an emergency by the legislature is not conclusive upon the courts and that they may determine for themselves whether or not an emergency exists within the meaning of the constitutional provision. *State v. Sullivan*,

283 Mo. 546, 224 S.W. 327. However, in neither this state nor in other jurisdictions which take the same position as Missouri with reference to the conclusiveness of the legislature's determination of the existence of an emergency, do we find any cases dealing with the extent of the effect of an emergency clause in a bill which contains matters which if enacted separately might be held to be not proper subjects of emergency.

In the present bill the matters recited in the emergency clause undoubtedly justify the legislature's declaration of an emergency. The other sections do not in any respect appear to have been added simply as a subterfuge to permit the increase in salary without the ordinary delay in the effective date of the act. The legislature must have intended that the entire act would become effective at the same time, otherwise, they would have provided for a different effective date as to other matters which they did not consider included within the emergency clause. See Laws of Missouri, 1945, page 765, 803. Under such circumstances and in the absence of any court decisions or other authority holding that provisions of an act such as this should be considered separately in determining the effectiveness of an emergency clause, we feel that the entire act should be considered as effective upon the date of the Governor's approval, or August 3, 1949, if there are no other constitutional provisions which might be involved.

The only other constitutional provision which might be involved in determining the effective date of Section 9 of the bill is Section 13 of Article 7 of the Constitution of 1945, which prohibits increasing the compensation of state officers during the term of office.

On August 2, 1947 in an opinion written to the Honorable Ben H. Howard, this department considered the question of whether or not the aforementioned constitutional provision was applicable to Senate Bill No. 181, of the 64th General Assembly which provided an increase in the compensation of the Commissioner of Finance and the employees of the Department of Finance. In that opinion, a copy of which is attached, it was held that the persons occupying the positions covered by the act were not state officers within the meaning of Section 13, of Article 7. The reasoning and conclusion of that opinion in that regard are applicable in the present situation.

Hon. Clarence Webb, Supervisor 4.

CONCLUSION

Therefore, we are of the opinion that Senate Committee Substitute for Senate Bill No. 65, which amends the Savings and Loan Act and which contains an emergency clause, became effective immediately upon the bill's being signed by the Governor, and that Section 9 of said bill likewise became effective at such time.

Respectfully submitted,

ROBERT R. WELBORN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
ATTORNEY GENERAL

RRW:nm