

STATUTES: Of no force or effect prior to effective date.

February 19, 1934: 2-26-34



Hon. F. M. Stamps, Collector
City of Pleasant Hill
Pleasant Hill, Missouri

Dear Mr. Stamps:

We herewith acknowledge receipt of your request for an opinion of this office reading as follows:

"I understand that there was a bill passed sometime ago which cancels all penalties on unpaid taxes for the months of Jan. & Feb. tho' I understand some are still collecting penalties.

May we have your decision on this matter for which we will thank you very much?"

The bill referred to in your letter is undoubtedly House Bill #124, passed by the 57th General Assembly in extra session, reading as follows:

"That all penalties and interest on personal and Real Estate Taxes, delinquent for the year 1932 and prior years shall be computed after December 31, 1933, on the same penalty basis as the taxes delinquent for the year 1933 until paid."

We direct attention to the fact that this Bill carries no emergency clause and accordingly cannot be effective until the 1st day of April, 1934.

I.

TAXES CANNOT BE PAID UNDER HOUSE
BILL # 124 UNTIL APRIL 12, 1934.

Our constitution provides that no bill shall be effective until ninety days after the adjournment of the Legislature enacting the law, (Section 36, Article IV). In our opinion payment of taxes under the above quoted act during January and February would annul this constitutional provision. It has been the long established rule of law in this State than an enactment of the Legislature has no force or effect for any purpose until its effective date. Such was the holding of the Supreme Court in the early case of St. Louis vs. Alexander, 23 Mo. 483, and the case of Keane vs. Cushing, 15 Mo. App. 96. In the latter case we find the following pronouncement of the law, l. c. 99:

" * * * It is a general rule that, where a constitutional provision prescribes the date at which an act of the legislature shall take effect, until the arrival of that date, it has no force or validity for any purpose whatever; not even for the purpose of imparting notice of its existence. It is said by an authoritative writer on statutory construction: 'A statute which is to become a law at a future date, is a nullity in the meantime. It does not even operate as notice to persons to be effected by it; nor does a repealing clause in it put an end to the law to be repealed.' * * * "

The general rule as there stated was adopted by our Supreme Court in the Alexander case supra, and referred to by the St. Louis Court of Appeals, l. c. 100:

" * * * Our Supreme Court has taken the same view of the subject. The city and county of St. Louis were authorized by a statute to make a certain subscription to the capital stock of a railroad company. The statute provided that, before the subscription should be made, the question should be submitted to a vote of the people at an election. The statute contained no clause as to the time within which it should

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take effect. This being so, under the general law then in force (Rev. Code 1845, p. 698), it did not take effect until ninety days after its passage. Nevertheless, the question was submitted to a vote of the people at an election held before the expiration of that time. It resulted in favor of making the subscription. The county court thereupon made the subscription. It was held that, because the election had been held before the statute authorizing the subscription became operative, the subscription was void.* * * *

CONCLUSION.

It is therefore the opinion of this office that no force or effect can be given to House Bill 124 until the effective date of the act, to-wit, April 12, 1934.

Respectfully submitted,

HARRY G. WALTNER, JR.
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General.

HGW:MM