

STATUTES:
EMERGENCY CLAUSE:
WHEN EFFECTIVE:

If a bill is amended, then the emergency clause must be adopted after such amendment in order that it may be effective.

7/27
July 26, 1939



Mr. C. W. Detjen
County Counselor
St. Louis County
Clayton, Missouri

Dear Mr. Detjen:

This is in reply to yours of recent date wherein you submit the following question:

"There is some confusion in the minds of the officials of St. Louis County as to when the new law affecting constable's salaries will go into effect.

"The above house bill was passed at the last session of the legislature and as sent to the Governor it contained an emergency clause, but the records of the House disclosed that upon final passage, the required number of members were not present to adopt the emergency clause, and that it was actually passed in the House without this clause. When it originally passed the House, the emergency clause was adopted, but that was not the case when passed in its amended form.

"The County Court has asked me to secure an opinion from you as to whether, under these circumstances, the law went into effect upon being signed by the Governor or whether it will not be effective until 60 days after the date of signing."

It appears from your request that House Bill Number 569, which pertains to constables in counties the size of St. Louis County, was first passed in the House with an emergency clause attached thereto. This Bill went to the Senate where it was amended and then went back to the House for final passage as amended. It also appears that there were not enough members in the House at the time of its passage to adopt the emergency clause.

Section 30 of Article IV of the Constitution of Missouri provides as follows:

"If a bill passed by either house be returned thereto, amended by the other, the house to which the same is returned shall cause the amendment or amendments so received to be printed under the same supervision as provided in the next preceding section, for the use of the members before final action on such amendments."

It will be noted that this section, in speaking of amendments, provides that such amendments must be printed for the use of the members before final action on such amendments. Section 31 of said Article provides as follows:

"No bill shall become a law unless on its final passage the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journal, and a majority of the members elected to each house be recorded thereon as voting in its favor."

We think this section, in referring to a bill, means the bill, as amended, in its final form. In other words, the bill, as amended, is what is to become the law and that which the members vote upon. Section 36 of said Article provides as follows:

"No law passed by the General Assembly, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency (which emergency must be expressed in the preamble or in the body of the act), the General Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journal."

It will be noted that this section provides that a bill does not become effective until ninety days after the adjournment unless the emergency clause is attached.

By reading all of these sections together, we think that the law is plain that it was intended that the emergency clause would be in force only when it has been voted upon after the bill has been placed in its final form and passed by the constitutional majority.

CONCLUSION.

From the foregoing it is the opinion of this department that since the emergency clause to House Bill Number 569 was adopted before said Bill was passed in its final form, that said House Bill Number 569, as amended, was not passed with the emergency clause, and, therefore, will not go into effect until ninety days after the adjournment of the Session.

Respectfully submitted

TYRE W. BURTON
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APPROVED:

COVELL R. HEWITT
(Acting) Attorney General

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