



**WILLIAM J. SCOTT**

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SPRINGFIELD

March 23, 1973

FILE NO. S-553

CONSTITUTION:  
Effective date of  
legislation

Honorable Edward McBroom, Chairman  
Committee on Appropriations  
Illinois State Senate  
State House  
Springfield, Illinois

Dear Senator McBroom:

Your predecessor as Chairman of the Senate  
Appropriations Committee requested my opinion as to the  
effective date of Senate Bill 970, which provides for grants  
to counties, municipalities and townships for the additional  
compensation of law enforcement officers who meet specified  
educational standards.

Senate Bill 970 was introduced into the Senate on  
April 20, 1971 and passed the Senate on June 18, 1971. While  
in the House of Representatives, Senate Bill 970 was amended

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and passed the House, as amended, on June 30, 1972. The Senate concurred in this amendment on June 30, 1972.

On September 21, 1972, the Governor, pursuant to the amendatory veto section of the Illinois Constitution of 1970 (Ill. Const., art. IV, sec. 9(e)) returned Senate Bill 970 to the Senate with specific recommendations for change. Motions to accept the Governor's recommendations for change were approved by the Senate on November 28, 1972 and by the House on December 15, 1972. The Governor certified on December 27, 1972 that the acceptance by both Houses conformed with his recommendation.

In your letter you state, in part, as follows:

"The bill does not have an effective date clause. We have been advised of varying interpretations of the Illinois Constitution and Statutes concerning the effective date of this bill. I am writing to inquire on behalf of the Committee on Appropriations as to your opinion as to the effective date of this legislation."

There are two provisions of the Illinois Constitution of 1970 which are relevant to the question you raise. Section

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9(e) of article IV of the Illinois Constitution of 1970 provides as follows:

"(e) The Governor may return a bill together with specific recommendations for change to the house in which it originated. The bill shall be considered in the same manner as a vetoed bill but the specific recommendations may be accepted by a record vote of a majority of the members elected to each house. Such bill shall be presented again to the Governor and if he certifies that such acceptance conforms to his specific recommendations, the bill shall become law. If he does not so certify, he shall return it as a vetoed bill to the house in which it originated."

Section 10 of article IV of the Illinois Constitution of 1970 provides as follows:

"The General Assembly shall provide by law for a uniform effective date for laws passed prior to July 1 of a calendar year. The General Assembly may provide for a different effective date in any law passed prior to July 1. A bill passed after June 30 shall not become effective prior to July 1 of the next calendar year unless the General Assembly by the vote of three-fifths of the members elected to each house provides for an earlier effective date."

When Senate Bill 970 was originally enacted and sent to the Governor for his approval, lines 4 through 9 inclusive

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on page 2 of engrossed Senate Bill 970 read as follows:

"Section 4. At the direction of the Board, the Illinois Law Enforcement Commission, from appropriations made to it for grants in aid to local units of government, shall pay the grants, not exceeding a total of \$250,000 per year, provided in this Act to be made to counties, municipalities and townships."

The Governor recommended that these lines be stricken and the following substituted therefor:

"Section 4. No more than 50% of any appropriation under this Act shall be spent in any municipality having a population of more than 500,000. If at the time of the reimbursement to units of local government participating in the program there is not a sufficient amount in the appropriation to make reimbursement in full, the appropriation shall be apportioned among the participating units of local government."

In his message to the Senate, the Governor explained his reasons for the recommended change in Senate Bill 970 as follows:

"In the final form of this enactment Section 4 provides that the cost of this program is to be met by earmarking \$250,000 of the line item

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for grants in aid for local units of government contained in the Illinois Law Enforcement Commission appropriation. The line item appropriation referred to is the State's contribution to the matching requirements for grants under the Federal Omnibus Control and Safe Streets Act of 1963. Subsequent to the passage of this bill, I have been advised by the Law Enforcement Assistance Administration of the Department of Justice that the earmarking of these funds as provided in Senate Bill 970 is in conflict with the federal law and cannot be given effect under the supremacy clause of the United States Constitution.

Because Section 4 does not specifically make an appropriation but rather earmarks an appropriation in another bill, it is unclear whether Section 4 constitutes an 'item of appropriation' contemplated within the line item veto power given the Governor under Section 9 (d) of our Constitution. In view of this uncertainty and also in view of the different vote requirements, the deficiencies of Section 4 can best be remedied through the amendatory veto provided in Section 9 (e). It is my understanding that a separate emergency appropriations bill as a companion to Senate Bill 970 will be presented for enactment by the General Assembly in its fall session.

Apart from the language which I am proposing be stricken, it has been recommended that this new act incorporate the same limitation on the distribution of education funds found in Section 9 of the Illinois Police Training Act of 1965 (1971 Ill. Rev. Stat. Ch. 85, sec. 509) which is also administered by the Illinois Local Governmental Law Enforcement Officers Training Board. This

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recommendation is incorporated in the proposed revision of Section 4."

Richard B. Ogilvie, Governor  
of Illinois, Legislative  
Message, 1972 session 77th  
General Assembly, p. 65.

It is clear that the changes recommended by the Governor and approved by both houses were substantive and not merely technical or minor corrections.

Presently, People ex rel. Klinger v. Howlett, 50 Ill. 2d 242, is the only case dealing with the question of the effect of an amendatory veto upon the effective date of the law. In that case the Illinois Supreme Court held that, at least in situations where the Governor's recommended changes are substantive in nature and not merely technical or minor corrections, a bill cannot be considered "passed" until the General Assembly has approved those changes. In so ruling, the court stated:

"In the present situation the last act of the legislature which permitted the Governor to make the bills become law by his acceptance was the vote of the houses of the General Assembly which approved the Governor's changes in the bills. For the purpose of section 10 of article IV, these bills were 'passed' on October 28, 1971, when the House voted to accept the

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Governor's executive amendment after the Senate had already done so. Any other definition of the word 'passed' which fixed an earlier time would require this court to rule that the bills were passed before the legislature ever considered them in their final form, indeed before they were written. Nothing in the constitution of 1970 suggested that the word 'passed' was used in such an artificial and abnormal sense."

50 Ill. 2d 242, 247-8.

Therefore, Senate Bill 970 was "passed" on December 15, 1972 when the House voted to accept the Governor's recommended changes after the Senate had already done so.

Section 10 of article IV of the Illinois Constitution of 1970 provides that if a bill is passed after June 30 it shall not become effective until July 1 of the next calendar year unless the General Assembly by the vote of three-fifths of its members elected to each House provides for an earlier effective date. As you have pointed out, Senate Bill 970 has no effective date clause. Therefore, I am of the opinion that the effective date of Senate Bill 970 is July 1, 1973.

Very truly yours,

A T T O R N E Y G E N E R A L