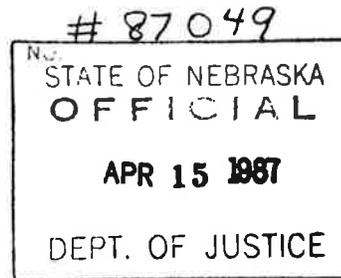


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

DATE: April 15, 1987

SUBJECT: Art. IV, Section 15 of the Nebraska Constitution;
On What Date Does a Bill Become Law When it is
Neither Approved nor Vetoed by the Governor;
What is the Effective Date of a Bill Passed
With the Emergency Clause?

REQUESTED BY: Joanne M. Pepperl
Revisor of Statutes and Bill Drafter

WRITTEN BY: Robert M. Spire, Attorney General
Dale A. Comer, Assistant Attorney General

You have asked for our views concerning two separate issues regarding the date upon which a bill becomes law when it is neither approved nor vetoed by the Governor, and regarding the date upon which a bill becomes effective when it is passed with the emergency clause. We have researched the applicable law, and our opinions as to the questions which you have raised are set out below.

LB 432 was passed by the 90th Nebraska Legislature on March 20, 1987, and presented to the Governor for her action on that same date. On March 27, 1987, LB 432 was delivered to the Nebraska Secretary of State with correspondence from the Governor which indicated that she had neither vetoed nor signed the bill and that she had allowed it to become law without her signature. It is your responsibility to prepare the mat for the printing of the slip law for LB 432 which includes the following line: "Became law (date) without approval of the Governor." There has been some apparent confusion in the past concerning the date upon which a bill has become law under these circumstances. Accordingly, you first ask when LB 432 became law, and what date should be inserted for printing of the slip law.

Art. IV, Section 15 of the Nebraska Constitution provides, in pertinent part:

Any bill which shall not be returned by the Governor within five days (Sundays excepted) after it shall have been

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presented to him, shall become a law in like manner as if he had signed it; unless the Legislature by their adjournment prevent its return; in which case it shall be filed, with his objections, in the office of the Secretary of State within five days after such adjournment, or become a law.

Our Supreme Court has not addressed the issue of when the five day period set out in Art. IV, Section 15 of our Constitution begins to run and when that time period expires. However, the general rule in a number of other jurisdictions appears to be that where a certain number of days is prescribed within which the Governor of a state must either approve, veto or return a legislative bill, such days are to be computed by excluding the day on which the bill was presented to the Governor and by including the last day of the specified time period. Redmond v. Ray, 268 N.W.2d 849 (Iowa 1978); Advisory Opinion to the Governor, 131 So.2d 196 (Fla. 1961); 82 CJS Statutes, §49; 73 Am.Jur.2d Statutes, §78; 54 ALR 339. Also, the "days" within which a Governor must act on a legislative bill submitted to him, or within which the bill will become law without action on his part, are days of 24 hours each. 54 ALR 339. Immediately upon the lapse of the time period provided for in the Constitution for the Governor to act upon a bill, the bill becomes law. State ex rel. Mass Transportation Authority v. Indiana Revenue Board, 144 In.A. 63, 242 N.E.2d 642 (1968); Ex parte Benight 53 Ocr. 293, 11 P.2d 208 (1932).

On the basis of the authority cited above, it is our conclusion that the five day period for approval or veto of a bill presented to the Governor begins on the day following presentation of the bill. The period ends at 12:00 a.m. on the fifth day thereafter, Sundays excluded. Therefore, a bill becomes law at 12:01 a.m. on the sixth day after the bill was presented to the Governor, Sundays excluded, when the Governor does not approve the bill or veto it. Under the specific circumstances which you described, LB 432 became law at 12:01 a.m. on March 27, 1987, which was the sixth day after its presentation to the Governor with Sunday, March 22 excluded from the calculation.

You also ask what is the effective date of a bill passed with the emergency clause. It is our view that the case which you cited to us, Wilson & Company, Inc. v. Otoe County et al., 140 Neb. 518, 300 N.W. 415 (1941) is dispositive of this issue. In that case, our Supreme Court stated, ". . . we conclude that where a statute provides that it shall take effect, 'from and after its passage and approval,' in computing the time when it takes effect, the day of its passage is excluded, and it goes

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into effect the next day." Id. at 520, 521; 300 N.W. at 417. Therefore, when a bill is passed and approved with the emergency clause, it goes into effect at 12:01 a.m. on the following day. LB 432 would therefore become effective at 12:01 a.m. on March 28, 1987. We understand that this latter opinion is consistent with your past practice.

Sincerely,

ROBERT M. SPIRE
Attorney General

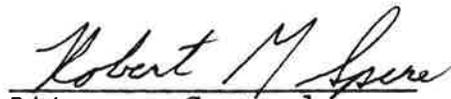


Dale A. Comer
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DAC:pa

cc: Patrick J. O'Donnell
Clerk of the Legislature

APPROVED:


Attorney General