



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

August 31, 1959

Honorable Robert S. Calvert
Comptroller of Public Accounts
Capitol Station
Austin, Texas

Opinion No. WW-69~~2~~³

Re: Effective date of H.B. 14,
3rd C.S., 56th Leg., and
related questions.

Dear Mr. Calvert:

You have requested an opinion on the effective date of House Bill 14, Acts of the 56th Legislature, Third Called Session, 1959. Your specific questions read as follows:

"Is it effective immediately upon the approval by the Governor? Or, is it a ninety-day bill?"

"Is the appropriation provision effective immediately upon the approval by the Governor and the other amendatory section effective ninety days after adjournment?"

The effective date of House Bill 14 depends on whether it is an appropriation bill simply setting aside a sum of public money and providing the means for its expenditure, or whether it is a general law containing an appropriation.

The caption of House Bill 14 provides as follows:

"An Act to provide Three Hundred and Thirty-three Thousand Dollars (\$333,000) for additional expenses of the Fifty-sixth Legislature by amending Section 2 and Section 2a of Chapter 241 (House Bill No. 755), Acts, 1935, Forty-fourth Legislature, Regular Session, as amended by Section 2 of Subdivision (b) of Section 1, Chapter 1 (House Bill No. 2) Acts, 1950, Fifty-first Legislature, First Called Session as amended by

Section 1 of Article 1 of Chapter 404 (House Bill No. 660), Acts 1955, Fifty-fourth Legislature, Regular Session, as amended by Section 3 of Chapter 1 (House Bill No. 1), Acts, 1959, Fifty-sixth Legislature, Regular Session, as amended by House Bill No. 22, Acts 1959, Fifty-sixth Legislature, Second Called Session (codified in Vernon's Civil Statutes as Section 2 (e) of Article 7047c-1) so as to divert said amount from cigarette tax collections to the Legislative Expense Fund, amending Section 5 a of Chapter 1, Acts, 1959, Fifty-sixth Legislature, Regular Session, so as to prohibit the earmarking of funds by motion or Resolution by unilateral action of either House, appropriating such moneys for the Fifty-sixth Legislature's expenses; prescribing the per diem and mileage rates of Legislative Members of interim committees and other agencies of the Legislature; and declaring an emergency."

Section 1 of the Act amends certain Sections of Article 7047c-1, Vernon's Civil Statutes, a general law providing for the levy and collection of certain taxes. Section 1 of House Bill 14 provides for the allocation of certain revenues derived from the tax levy of Section 2 of Article 7047c-1.

Sections 2 and 3 of House Bill 14 amend House Bill 1, Acts of the 56th Legislature, Regular Session, 1959, Chapter 1, page 1, which is an act creating the Legislative Expense Fund and providing for the expenses of the 56th Legislature by amending Article 6687b, Vernon's Civil Statutes and Article 7047c-1, Vernon's Civil Statutes.

Section 4 of House Bill 14 appropriates moneys transferred into the Legislative Expense Fund for the purposes described in Section 5 of House Bill 1, Acts of the 56th Legislature, Regular Session, 1959, Chapter 1, page 1.

An appropriation bill cannot repeal, modify or amend an existing general law. *Conley v. Daughters of the Republic*, 151 S.W. 877, (1912) *Linden v. Finley*, 92 Tex. 451, 49 S.W. 578 (1899); *State v. Steere*, 57 Tex. 203 (1882); Attorney General's Opinion WW-96 (1957). The appropriation contained in Section 4 of House Bill 14 would be invalid without

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amending the existing general law since such appropriation would be contrary to existing general legislation. The amendments to the existing general law necessary in order for the appropriation contained in Section 4 to be valid were made in Sections 1, 2 and 3 of House Bill 14. Since House Bill 14 amends provisions of the general law, it is our opinion that it is a general law containing an appropriation.

Section 39 of Article III of the Constitution of Texas provides:

"No law passed by the Legislature, 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 a preamble or in the body of the act, the Legislature 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 journals."

House Bill 14 was passed by a viva voce vote. Therefore, its provisions, including the appropriation contained in Section 4, are effective ninety days after the adjournment of the Third Called Session of the 56th Legislature. Caples v. Cole, 129 Tex. 370, 102 S.W.2d 173 (1937).

SUMMARY

House Bill 14, Acts of the 56th Legislature, Third Called Session, 1959, amending Article 7047c-1, Vernon's Civil Statutes, and House Bill 1, Acts of the 56th Legislature, Regular Session, 1959, Chapter 1, Page 1, is a general law containing an appropriation and is effective ninety days after date of adjournment of the Third Called Session

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of the 56th Legislature, not having received the two-thirds record vote required by Section 39 of Article III of the Constitution of Texas.

Yours very truly,

WILL WILSON
Attorney General of Texas

BY 
John Reeves
Assistant

JR:mfh

APPROVED:

OPINION COMMITTEE
Geo. P. Blackburn, Chairman

B. H. Timmins, Jr.
Dean Davis
William E. Allen
Jay Howell

REVIEWED FOR THE ATTORNEY GENERAL
BY: Leonard Passmore