

FILE

Subject State House vs
Legislature 1974



STATE OF KANSAS

Office of the Attorney General

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VERN MILLER
Attorney General

March 1, 1974

Opinion No. 74-73

Honorable Robert F. Bennett
President, Kansas Senate
State Capitol
Topeka, Kansas 66612

Honorable Duane S. McGill
Speaker, House of Representatives
State Capitol
Topeka, Kansas 66612

Gentlemen:

You advise that Governor Docking has furnished three executive reorganization orders to the Legislature, numbers 3, 4 and 5, and that these orders were "received at approximately 5:30 o'clock P.M., after the Senate and the House adjourned, on the 30th day after convening, (Wednesday last)." You state that although the orders were presented after both the House of Representatives and the Senate had adjourned for the day and were read on the next succeeding day, Thursday, February 7, 1974, the orders were in fact presented to employees of the House and Senate who remained on duty for the purpose of receiving them.

Article I, § 6 of the Kansas Constitution requires the Governor to transmit such orders "to the legislature within the first thirty calendar days of any regular session." This requirement is obviously designed to assure that the Legislature will have adequate time during the session in which to consider such orders as are transmitted. Nothing in this language requires, in our view, that an order transmitted on the thirtieth calendar day of any regular session be transmitted while either the House of Representatives or the Senate remains in session on that day. It is sufficient, in our view, if the order is transmitted prior to 12:00 P.M. on the thirtieth day, and accepted by officers or employees of the Legislature prior to that time.

Hon. Robert F. Bennett
Hon. Duane S. McGill
March 1, 1974
Page Two

Secondly, you state that you

"have been advised that Executive Order No. 3 has three separate versions that were submitted to the Secretary of State at three separate times.",

and that the "version actually filed is not the final version of the bill and that this final version was delivered on February 7."

The Journal of the House dated February 7, 1974, beginning on page 226 thereof, contains the text of Executive Reorganization Order No. 3. At page 233, the Journal recites that this Order, "received from the Governor on February 6, 1974," was read the first time on February 7, 1974. The text of this order is also set out in full in the Journal of the Senate dated February 7, 1974, commencing at page 277. On page 291 thereof, the Journal recites that

"Executive Reorganization Orders Nos. 3, 4 and 5 were received by the Secretary of the Senate at 5:30 p.m. Wednesday, February 6, 1974."

These orders recited by the cited Journal entries are, of course, the orders before the Legislature. If you have any doubts concerning the accuracy of the Journal of either the House of Representatives or of the Senate, you should direct your inquiries to the officers in charge thereof. Attached hereto is a xero-graphic copy of Executive Order No. 3 which bears the initials apparently of the Chief Clerk of the House, L. O. Hazen, and the Secretary of the Senate, Ralph E. Zarker, each bearing the date of February 6, 1974. The text of this copy of the order is presumably that which appears in the Journals of the respective houses. If it is not, the Journals should be corrected accordingly.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm
Enc.

cc: Tom Van Sickle
State Treasurer