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BILL EVANS 637-5253

LEGISLATIVE PROCEDURE

IN THE
GENERAL ASSEMBLY
OF THE
STATE OF INDIANA

INDIANA LEGISLATIVE COUNCIL

established over the past several sessions the House or Senate Attorney then takes the bill to the Attorney General who examines it for its constitutionality. After attaching his letter setting out his opinion the Attorney General returns the bill to the House or Senate Attorney. Receipts are required for each of these transactions. The attorney then presents each bill to its author for signature of the history before transmitting it to the Clerk of the House or Secretary of the Senate.

4. **SIGNATURE OF BILLS.**—Every bill, when passed, must be signed by the presiding officer of each house.¹⁷² After a bill has been reported correctly enrolled, it is then ready for signature. A bill is signed first by the Speaker of the House and then by the President of the Senate. All bills must be signed when the House or Senate is in session. When the presiding officer has affixed his name to the bill, he says: "The Chair has signed House (or Senate) Enrolled Act No. _____,"¹⁷³

5. **PRESENTATION OF BILL TO GOVERNOR.**—After an enrolled bill has been signed by the Speaker of the House and the President of the Senate, it is then presented to the Governor.¹⁷⁴ House bills are presented to the Governor by the Clerk of the House, and Senate bills by the Secretary of the Senate. All bills, except those passed within two days next previous to the final adjournment of the General Assembly must be presented to and received by the Governor. The Constitution provides that "no bill shall be presented to the Governor within two days next previous to final adjournment of the General Assembly."¹⁷⁵ This provision has been construed to mean that the Governor is required to receive and act upon all bills presented to him during the first 59 days of the session. During the last two days of the session, it is within the discretion of the Governor either to receive and act on such bills or to decline so to do.¹⁷⁶

172. Const. Art. IV, Sec. 25.

173. Joint Rules 4 and 5; House Rule 7.

174. Joint Rule 4; Const. Art. V, Sec. 14.

175. Const. Art. V, Sec. 14.

176. The last sentence in Const. Art. V, Sec. 14 has had different interpretations by different Governors in the past. Two examples are cited:

(1) On March 4, 1915, Governor Ralston sent the following message to the General Assembly: "I desire to call your attention to the constitutional provision against presenting any bill to the Governor within two days next previous to the final adjournment of the General Assembly. This provision has always been construed to mean two working days of twenty-four hours each. I will, therefore remain at the Governor's office until twelve o'clock p.m. on Friday, March 5, 1915, for the purpose of receiving bills which you may wish to present for executive approval." (Senate Journal 1915, p. 1087.) See Note 179 for a Supreme Court decision which does not agree with Governor Ralston's interpretation.

(2) In a message to the General Assembly on March 13, 1879, Governor James D. Williams construed the two-day constitutional provision to mean Sunday and Monday and hence received bills up to 12 o'clock Saturday night (House Journal 1879, p. 1158). See Note 179 for Supreme Court decision which agrees with Governor Williams' interpretation.

6. **ACTION ON BILLS BY GOVERNOR.**—The bills which are presented to the Governor are divided into two classes:

A. *Required Action.* The Governor is required to receive and act upon all bills which are presented to him during the *first 59 days of the session.*¹⁷⁷ By the Constitution, Art. V, Sec. 14, he is granted three days in which to take action upon any bill. In acting upon bills upon which action is required, the Governor may:

- (1) Approve the bill by affixing his signature thereto, and file it in the office of the Secretary of State; or
- (2) File the bill in the office of the Secretary of State without affixing his signature thereto;¹⁷⁸ or
- (3) Decline to take action thereon for a period of three days, Sundays excepted;¹⁷⁹ or
- (4) Disapprove of the bill within three days, Sundays excepted, after he has received it, and return the bill with the reasons for his disapproval, to the house in which it originated.

If the Governor signs the bill and files it in the office of the Secretary of State, or files it in the office of the Secretary of State without his signature, within three days, Sundays excepted, after it is presented to him, the bill becomes a law in the formal manner. If the Governor declines to take any action on a bill for a period of three days, Sundays excepted, after it is presented to him, the bill automatically becomes a law without his approval and signature. If the Governor disapproves of the bill and returns it to the house in which it originated, with his veto or reasons for disapproval, within three days, Sundays excepted, after it has been presented to him, the bill does not become a law unless it is passed over his veto.

When bills are presented to the Governor so late in the session that he does not have three days, Sunday excepted, to deliberate and act upon them, he is granted, by the Constitution, five additional days to act after the close of the session.

B. *Discretionary Action.* The Governor is not required to receive, receipt for, or take any action upon bills which are presented to him during the last two days of the session. (However, by common practice, a record shall be given to the Clerk of the House and the Secretary of the Senate for those bills delivered to the Governor's office during the last two days of the session.) In these cases the Governor may:

177. See Supreme Court Decision of 1930, 202 Ind. 197 and Attorney General's Opinion of 1935, p. 84.

178. Examples of Acts filed in the office of the Secretary of State without the Governor's signature:
1951 Acts, Chapter 125, p. 326.
1959 Acts, Chapter 259, p. 938.
1957 Acts, Chapter 19, p. 31.

179. The following bills became laws without the Governor's approval because he failed to take any action within the three-day limitation period.
(1) Laws 1869, p. 6.
(2) Laws 1869, S. S., pp. 10 and 37.
(3) Laws 1895, p. 359.

- (1) Receive the bill, approve it by affixing his signature thereto, and file it in the office of the Secretary of State;¹⁸⁰ or
- (2) Receive the bill and file it in the office of the Secretary of State without affixing his signature thereto;¹⁸¹ or
- (3) Receive the bill, disapprove of it and file it, with the reasons for his disapproval, in the office of the Secretary of State;¹⁸² or
- (4) Receive the bill, but take no action (Such inaction on the part of the Governor constitutes a so-called "pocket veto."); or
- (5) Decline to receive the bill.¹⁸³

The action contemplated under the heading of "Discretionary Action," must be taken by the Governor within five days after the General Assembly adjourns *sine die*. Since the regular 61 day sessions of the General Assembly always adjourn on Monday, the Governor has the rest of the week, including Saturday, in which to take action.

If the Governor receives a bill, signs it and files it in the office of the Secretary of State, or receives and files a bill in the office of the Secretary of State without his signature, within five days after the General Assembly adjourns *sine die*, the bill becomes a law in a formal manner; but if the Governor receives a bill, disapproves of it and files it with the reasons for his disapproval in the office of the Secretary of State, within five days after the General Assembly adjourns *sine die*, the bill does not become a law unless it is passed over his veto by the next succeeding session, special or regular, of the General Assembly.¹⁸⁴ If the Governor declines to receive a bill, after the first 59 days of the session are past, it is lost.¹⁸⁵

7. PASSAGE OF BILL OVER GOVERNOR'S VETO.—Bills which the Governor vetoes fall into two groups:

- A. Those which are vetoed prior to the general adjournment of the General Assembly by which they were passed, which must be returned to the General Assembly, yet in session, for action; and
- B. Those which are vetoed during the five day period succeeding the adjournment of the General Assembly, and which must be re-

180. Const. Art. V, Sec. 14. The date of the Governor's approval is placed in the printed act, just above or just below the title of the act.

181. Const. Art. V, Sec. 14. House Bill No. 5 was filed in the office of the Secretary of State on March 9, 1951, without the Governor's signature. It became Chapter 322 of the 1951 Acts. The General Assembly adjourned on March 5, 1951. See Acts 1951, p. 1087. The Governor's action was entirely discretionary since the bill was not signed by the Speaker until March 5, the day of adjournment.

182. Const. Art. V, Sec. 14. Senate Bill No. 276 of the 1951 Special Session was vetoed after the adjournment of the General Assembly and was filed in the office of the Secretary of State. This vetoed bill was passed over the Governor's veto in the 1953 session. See 1953 Senate *Journal*, p. 39, and House *Journal*, p. 71. For a Governor's veto message, see Fig. 35, p. 139.

183. Const. Art. V, Sec. 14. The Governor is not obliged to receive bills presented to him on the last two days of the session, since the Constitution provides that no bill shall be presented to him during that period.

184. See Note 182.

185. Const. Art. V, Sec. 14.

turned to the next session, special or regular, of the General Assembly for action.

When the Governor vetoes a bill prior to the adjournment of the General Assembly which passed the bill, he is required to return the bill, together with his objections thereto, known as a veto message, to the house in which it originated. Upon receipt of such bill and the Governor's objections thereto, the house to which the bill is returned is required to enter the Governor's objections at large upon its journal and then proceed to reconsider the bill. The reconsideration of the bill is usually taken up as soon as the business pending at the time the bill was returned is disposed of. The question then is: "Shall the bill pass, the Governor's veto notwithstanding?" If the bill does not receive the vote of a majority of the members, it is lost, and it is not sent to the other house.¹⁸⁶ If the bill is repassed by a majority of all the members elected to the house in which it is pending, it is then sent with the Governor's objections to the other house.

Upon receipt of the bill by the other house, it is reconsidered in the same manner as by the house in which it originated, and if upon reconsideration it receives the affirmative vote of a majority of the members elected to this house, the bill has then passed over the Governor's veto and becomes a law.¹⁸⁷ If the bill does not receive the affirmative vote of a majority of the members elected to this house, it is lost, notwithstanding the house in which it originated may have repassed it.¹⁸⁸

When a bill passes over the Governor's veto, it is not again submitted to the Governor, but is presented by the Clerk of the House or Secretary of the Senate which last considered the bill, to the Secretary of State and is filed in his office.

When the Governor vetoes a bill after the adjournment of the General Assembly, he is required to file the bill, together with his objections, in the office of the Secretary of State, and the Secretary of State is required to lay the bill before the General Assembly at its next session, special or regular, in like manner as if it had been returned by the Governor.¹⁸⁹ Except as otherwise indicated, the procedure and

186. House Bill No. 147 of the 1953 session was vetoed by the Governor and returned to the House. The vote on the passage of the bill, the Governor's veto notwithstanding, by the House was 19 ayes to 73 noes. The bill was not sent to the Senate since the Governor's veto was sustained by the House.

187. Senate Bill No. 86 of the 1951 session was vetoed by the Governor on March 5. At the evening session of the same day the Senate passed the bill over the Governor's veto and sent it to the House. During the same evening session the bill was also passed by the House over the Governor's veto. See 1951 Senate *Journal*, pp. 849, 855, 857; House *Journal*, pp. 1054, 1055, 1057, 1058. It became Chapter 321 in the 1951 Acts.

188. House Bill No. 377 of the 1879 session was vetoed by the Governor and returned to the House. The first vote on the passage of the bill in the House, the Governor's veto notwithstanding, was 45 ayes to 38 noes; later the bill was voted on again and passed by a vote of 51 ayes to 31 noes, and was transmitted to the Senate where it failed by a vote of 22 ayes to 15 noes. See 1879 House *Journal*, pp. 1436, 1440 and 1445; Senate *Journal*, p. 925.

189. Const. Art. V, Sec. 14.

passage of such bills is identical with the procedure in the consideration and passage of a bill by the General Assembly in which it was originally passed.

8. **NOTIFICATION.**—When the Governor signs a bill, he notifies the house in which the bill originated and the house receiving such notification is required to notify the other house.¹⁹⁰

9. **FILING ACTS WITH SECRETARY OF STATE.**—All bills which finally become laws must be filed in the office of the Secretary of State.¹⁹¹ When a bill is filed, the Secretary of State assigns the bill a chapter number and notes in a record kept for that purpose, the chapter number, the number of the bill, the house of origin and the day and hour when it was filed.

XII. PRINTING AND DISTRIBUTION OF ACTS

1. **PRINTING ACTS.**—The laws passed at each session of the General Assembly are printed under the direction of the Secretary of State, in a volume or volumes, known as the *Laws* or the *Acts* of the General Assembly, or the *Session Laws*.¹⁹² In preparing the several acts for printing, the Secretary of State notes errors which may appear in an act, prints the incorrect word as it appears in the enrolled act and places the correct word in brackets after such incorrect word. The law as printed shows the chapter number of the law, the title, the number of the bill, designating by H. or S. whether a House or Senate bill, and the date of approval by the Governor, or if not approved, a statement that the bill became a law without the approval of the Governor, or that it was passed over the veto of the Governor.

The signatures of the presiding officers of the two houses and the Governor do not appear in the printed laws.¹⁹³ It usually takes about five or six months to edit, print, proofread, prepare tables, bind and distribute the laws. In addition to the text of all laws and joint and concurrent resolutions passed by the General Assembly, together with an index thereto, an accurate, but very brief, financial statement of the receipts and expenditures of state public money, covering the two fiscal years immediately preceding, must be published with the laws of each regular session.¹⁹⁴ The number of session laws printed is limited, by statute, to 8,500 copies.¹⁹⁵ There were 8,358 copies of the 1967 session laws printed. Each member of the Senate and House of Representatives automatically is provided one copy of the published Acts. By statute, he may obtain four additional copies by submitting a written request for same to the Secretary of State within thirty days after adjournment *sine die* of the session of the General Assembly at which the acts were passed.¹⁹⁶

190. Joint Rule 15.

191. I. R. S. 1852, p. 306; Burns 49-1501.

192. The Acts of 1945 and 1947 each were printed in two volumes.

193. For an act as it appears in the session laws, see Fig. 36, p. 140.

194. Const. Art. X, Sec. 4.

195. Acts 1963, Special Session, p. 121; Burns 49-1606, 49-1607.

196. Burns 49-1614.

2. **CERTIFICATION OF ACTS.**—When the acts are printed, the Secretary of State is required to certify the fact that he has compared the printed with the enrolled acts and found them to be correctly printed. The certificate must be signed and dated by the Secretary of State and annexed in print to the volume of the acts.¹⁹⁷

3. **DISTRIBUTION OF THE ACTS.**—When the laws are ready for distribution, the Secretary of State is required to transmit to the clerk of the circuit court of each county 10 copies of these session laws for each 1,000 votes cast for Secretary of State at the last general election in such county. Upon delivery of the acts assigned, each clerk is required to send to the Secretary of State by the first mail, a statement, under the seal of his office, showing the receipt of the acts so consigned to him and the day and hour such acts were received.¹⁹⁸ The Secretary of State is required to keep a record of these statements in his office.¹⁹⁹

4. **GOVERNOR'S PROCLAMATION.**—As soon as the certificates from all of the clerks, showing the date when the acts were received by the clerks, are received by the Secretary of State, the Governor is required to issue his proclamation announcing the date when the last filing took place.²⁰⁰ This proclamation does not put the laws into effect.

197. Acts 1897, p. 111, Burns 49-1611. See Fig. 37, p. 141.

198. Acts 1935, p. 122, Burns 49-1612.

199. I. R. S. 1852, p. 435, Burns 49-1621.

200. Acts 1855, p. 204, Burns 1-102, 1-103. The Governor's proclamation issued in 1967 is as follows:

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER NO. 5-67.

PROMULGATION OF THE ACTS OF THE NINETY-FIFTH
REGULAR SESSION OF THE GENERAL ASSEMBLY OF
THE STATE OF INDIANA
TO ALL TO WHOM THESE PRESENTS MAY COME, GREET-
ING:

WHEREAS, it has been made to appear to me that the Acts of the Ninety-Fifth Regular Session of the General Assembly (1967) of the State of Indiana have been transmitted to, received by and filed with the several Clerks of the Circuit Courts of the State of Indiana; and
WHEREAS, it has also been made to appear to me that the certification has been made, as provided by law, of the receipt of said laws by each of the several Clerks of the Circuit Courts of the State of Indiana; and
WHEREAS, it has further been made to appear that the final distribution and receipt of said laws took place on

the 26th day of July, 1967, at the hour of 11:00 A.M. (E.S.T.), (Chapter 335, Acts of 1957) in the office of the

Clerk of the Circuit Court of Spencer County, Indiana; NOW, THEREFORE, I, Roger D. Branigin, Governor of the State of Indiana, by virtue of the power and authority vested in me by the Constitution and the laws of said State, do hereby make proclamation announcing the above date and time, to wit:

the 26th day of July, 1967, at the hour of 11:00 A.M. (E.S.T.) (Chapter 335, Acts of 1957)