

902.

APPROVAL, NOTES OF WORTHINGTON VILLAGE SCHOOL DISTRICT,
FRANKLIN COUNTY, OHIO, \$5,000.00.

COLUMBUS, OHIO, May 31, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

903.

INITIATIVE PETITION—GENERAL ASSEMBLY NOT LIMITED TO
CONSIDERATION THEREOF WITHIN FOUR MONTHS' PERIOD
AFTER INTRODUCTION THEREIN—MAY CONSIDER BILL AFTER
SUCH PERIOD—CONSTITUTIONAL PROVISIONS NOT APPLI-
CABLE.

SYLLABUS:

When a bill is introduced into the legislature by initiative petition, the General Assembly is not limited by the provisions of Section 1b of Article II of the Ohio Constitution to a consideration of such bill during a four months period, after its introduction, but such legislative body has the jurisdiction after such four months period to consider and adopt or reject such bill in the same manner and with like effect as it could consider a bill introduced in such body in any other manner.

COLUMBUS, OHIO, June 1, 1933.

HON. THOS. E. BATEMAN, *Clerk of the Senate, Columbus, Ohio.*

DEAR SIR:—You have submitted a resolution of the Ohio Senate adopted May 17, 1933, requesting my opinion concerning the interpretation of Section 1b of Article II of the Ohio Constitution, which resolution reads:

“That the clerk of the Senate be hereby directed to submit to the attorney general of Ohio Initiated House Bill No. 1, together with a record of the proceedings in the General Assembly as affecting this bill, and ask for an opinion as to the meaning of section 1b of Article II of the Constitution of Ohio, and as to whether the Senate of right should proceed further in the consideration of this bill as more than four months have elapsed since the introduction of same and whether or not any further action by the General Assembly would interfere with the three months' time limit allowed for such referendum if desired by the proponents of the bill.

The following is a record of the proceedings on House Bill No. 1:

Jan. 2—	House	Introduced. To provide for the granting of aid to aged persons in the state of Ohio under certain conditions.
Jan. 19	House	Second reading.
Jan. 19	House	To Committee—Insurance.
Feb. 22	House	Reported—recommend passage.
Mch. 8	House	Third reading.
Mch. 8	House	Amended.
Mch. 8	House	Passed—Vote, yeas 91, nays 36.
Mch. 8	House	Motion to reconsider not agreed to.
Mch. 8	Senate	Received from the House.
Mch. 9	Senate	Second reading.
Mch. 9	Senate	To Committee—Labor
Mch. 23	Senate	Reported. Amended. Recommend passage.
Mch. 29	Senate	Third reading.
Mch. 29	Senate	Informally passed.
Mch. 30	Senate	Taken up.
Mch. 30	Senate	Amended.
Mch. 30	Senate	Passed—Vote, yeas 27, nays 3.
Mch. 30	House	Senate amendments not concurred in.
Mch. 30	Senate	Senate insists on amendments. Ask for committee.
Mch. 30	House	Request for a committee of conference—agreed to confer.
Mch. 30	House	Committee—Messrs. Frick of Seneca, Burk, Keifer.
Mch. 30	Senate	Committee—Messrs. Smolka, Harrison, Marshall.
May 15	House	Report of Committee of Conference agreed to.
May 17	Senate	Report of Committee of Conference disagreed to.
May 17	House	Asked for new Conference Committee.
May 17	Senate	Accedes to request of House for new Conference Committee.
May 18	Senate	Committee—Messrs. Ford, Espy and Pfeiffer.”

From an examination of the papers accompanying your request it appears that the ambiguity in such section giving rise to doubt in the minds of the General Assembly is as follows:

“When at any time, not less than ten days prior to the commencement of any session of the general assembly, there shall have been filed with the secretary of state a petition signed by three per centum of the electors and verified as herein provided, proposing a law, the full text of which shall have been set forth in such petition, the secretary of state shall transmit the same to the general assembly as soon as it convenes. *If said proposed law shall be passed by the general assembly either as petitioned for or in an amended form, it shall be subject to the referendum. If it shall not be passed, or if it shall be passed in an amended form, or if no action shall be taken thereon within four months from the time it is received by the general assembly, it shall be submitted by the secretary of state to the electors for their approval or rejection at the next regular or general election, if such submission shall be demanded by supplementary petition verified as herein provided and signed by not less than three per centum of the electors in addition to those sign-*

ing the original petition, which supplementary petition must be signed and filed with the secretary of state within ninety days after the proposed law shall have been rejected by the general assembly or after the expiration of such term or four months, if no action has been taken thereon, or after the laws as passed by the general assembly shall have been filed by the governor in the office of the secretary of state." (Italics the writer's.)

An analysis of such section discloses that the following requirements are made by the Constitution concerning an initiated bill which is by that section, made subject to referendum:

(1) The petition must be filed with the Secretary of State not later than ten days prior to the commencement of the session of the General Assembly.

(2) The initiative petition must be signed by not less than three per cent of the electors, and verified.

(3) The Secretary of State must transmit such bill to the General Assembly as soon as it convenes.

(4)a. If the initiated bill is not passed, or, (b) if it is passed in amended form, or, (c) if no action is taken on such bill within four months from the time it is received by the General Assembly such bill is, in either of such events, subject to referendum to the electors of the state; if a supplemental petition, signed by not less than three percent of the electors in addition to those signing the original petition, verified in the same manner as the original petition, be filed demanding that the secretary of state submit such bill to the electors at the next general election. Such additional petition must be filed within ninety days after (a) the rejection or failure of passage by the General Assembly, or (b) the passage thereof in amended form, or (c) after the expiration of four months from the date such bill was received by the General Assembly from the Secretary of State, if no action has been taken thereon.

From the facts set forth in your request it appears that the first three of these requirements have been complied with, that is, the three requirements, which are essential to the initiation of a bill in the General Assembly by the electors, have been complied with, with the result that the initiated bill was regularly before the General Assembly on January 2nd. The remaining requirements of the constitutional provision are with reference to a referendum. The statement of facts submitted by you shows that the initiated bill up and until this time, has not been passed in its original form, in an amended form, and that no final action either as to the adoption or rejection thereof has been made by the General Assembly.

Your inquiry is as to whether the Senate has the jurisdiction to proceed after the four month period mentioned in such section has elapsed, to consider the bill either for the purpose of rejection or adoption. The language of such section is rendered ambiguous by the fact that such amendment authorizes the submission of such initiated bill to the voters upon the filing of a petition demanding such submission signed by three percent of the electors of the state, in addition to those signing the original petition.

It is somewhat difficult, from the language of such section to determine whether it was the intent of the framers of such provision of the Constitution to authorize the General Assembly to consider such bill during a period of four months and if not enacted during such period to submit the proposed bill to electors of the state for their approval or rejection. However, there is a general rule of interpretation of provisions of the Constitution and of statutes, that

the debates of the constitutional convention and the journals of the legislature may be referred to for the purpose of determining the intent of the law making body in the event of an ambiguity.

The cardinal rule of all interpretation is to determine the intent of the law-makers as expressed in the language of the law. An examination of the proceedings and debates of the Ohio Constitutional Convention of 1912, discloses that when the provision of the Constitution in question was introduced in an amendment to the original initiative and referendum proposals to the Constitution, it contained the specific provision that:

"The proposed law or proposed amendment to the Constitution shall be either approved or rejected without change or amendment by the General Assembly, within sixty days after the time it is received by the General Assembly."

It also contained the provision that, "if no action be taken thereon within sixty days, the Secretary of State shall submit the same for approval or rejection at the next regular or general election in any year." (1 Proceedings and Debates of the Ohio Constitutional Convention of 1912, page 553, Section 1aa.) The language of such provision was slightly amended under date of March 27, 1912, by changing the "sixty day" period to "four months." *Idem*, page 952, Section 1-b.

It is to be noted that in the final adoption of this provision there is no express limitation upon the time within which the General Assembly may pass or reject the measure in its original or initiated form. Had paragraph 1b passed as it read when introduced before the Constitutional Convention, the express language of such section would have limited the time within which the legislature could consider such bill in its original form to the four month period.

An examination of the debates of such convention discloses that there was considerable opposition to the then new idea of authorizing the inception of laws by means of initiative petition. The original proponents of the idea insisted that laws initiated by a petition of the electors upon the filing of certain petitions, be submitted by the Secretary of State to the electors and, if adopted by a sufficient majority of the voters, should then become a law without any action whatsoever on the part of the legislature. Early in such convention it definitely appeared that such idea had no hopes of adoption and a substitute or compromised measure was introduced which permitted a smaller percentage of electors to, by petition, introduce a bill in the General Assembly.

It should be borne in mind that the initiation of a proposed law and the referendum of an enacted law are two separate and distinct ideas or theories and were so considered throughout such convention as is shown from an examination of the record of such proceedings. Thus the provision finally adopted with reference to initiated laws shows that only three percent of the voters is necessary to initiate the introduction of a bill in the General Assembly, but for a referendum of any law passed, a petition signed by not less than six percent of the electors is necessary to cause a referendum.

A large portion of the record of such proceedings is consumed in a delineation of the discussion and consideration of the provisions of the Constitution. Such records show that practically every provision proposed was bitterly opposed, and the result of such consideration is the paragraph now designated as "1b of Article II of the Constitution."

An examination of such report shows that there was decided opposition to

the limiting of the powers of the General Assembly in the enactment of laws. It would therefore appear that such convention did not remove the express language without by such removal intending to change the meaning of that which it was considering for enactment.

The Supreme Court, in the construction of statutes, has held on several occasions that a substantial change of language in a statute will be presumed to indicate a change of meaning. *Kiefer vs. State*, 106 O. S. 285; *Board of Education vs. Board of Education*, 112 O. S. 108; *County Board of Education vs. Boehm*, 102 O. S. 298.

It would, therefore, appear that the framers of the Constitution did not intend that their act should create an implied limitation upon the power of the legislature to consider an initiated bill when, in the earlier proposal it had specifically limited such power to a period of four months.

I am, therefore, of the opinion that the deletion of the language requiring the legislature either to adopt or reject an initiated bill within a period of four months after it was introduced, shows an intent of such constitutional framers, not to limit the time for consideration by the legislative body to such bill so introduced.

Section 1b of Article II of the Constitution, construed in the light of the proceedings of the constitutional convention in adopting such provision, would indicate that when a bill is initiated into the General Assembly by the so-called initiative petition it is before the legislature for all purposes, even though there is reserved to the advocates of such initiated bill the right to have such bill submitted on referendum to the electors for their approval or rejection in the instance referred to above.

In specific answer to your inquiry it is therefore my opinion that when a bill is introduced into the legislature by initiative petition, the General Assembly is not limited by the provisions of Section 1b of Article II of the Ohio Constitution to a consideration of such bill during a four months period after its introduction, but such legislative body has the jurisdiction after such four month period to consider and adopt or reject such bill in the same manner and with like effect as it could consider a bill introduced in such body in any other manner.

Respectfully,

JOHN W. BRICKER,
Attorney General.

904.

APPROVAL, NOTES OF ROSEVILLE VILLAGE SCHOOL DISTRICT,
MUSKINGUM COUNTY, OHIO—\$3,504.00.

COLUMBUS, OHIO, June 1, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.