

1974 WL 28015 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 4, 1974

***1 Re: Pre-filing of Bills**

Mrs. Sylvia W. Orange
Clerk of the House
State House
Columbia, South Carolina 29211

Dear Mrs. Orange:

House Rule 5.1 provides, in part:

. . . Any member may introduce bills or resolutions which shall be received by the House staff whether or not the House is in session. Bills and resolutions so received shall be periodically referred by the Speaker of the House to the appropriate committee or committees which may then consider them at such times as the committee meets. . . .

. . .

All bills received prior to the first day of the convening or reconvening of the General Assembly shall receive first reading on the first day of the session.

Several questions have been raised concerning the effect of this so-called 'pre-filing' rule as to any binding effect it might have upon 101th Session of the General Assembly.

Article 3, section 12 of the Constitution of 1895 (as amended, states that '[e]ach House shall choose its own officers, determine its rules of procedure, . . .'. Consequently, the House of Representative's power to propound its own rules is absolute, except that the House, by its rules, may not ignore constitutional restraints placed upon it. [State v. Lewis](#), 181 S.C. 10, 186 S.E. 625 (1936). Whenever possible, then, the Rules of the House should be given a constitutional construction.

The 100th Session of the General Assembly adjourned since die August 22, 1974. Resolution No. S2-55. The 101th Session is not to be convened until the second Tuesday in January, 1975. Article 3, section 9, Constitution of 1895. During the period from the sine die adjournment of the 100th Session to the convening of 101th Session of the General Assembly, there are no committees empowered to act officially upon pre-filed legislation since all committees are appointed by the Speaker of the House (House Rule 1.9)¹ and the Speaker for the 101th Session of the General Assembly is not elected until after the Session convenes the second Tuesday in January (Article 3, section 9, Constitution of 1895).

However, although the members elected to serve in the 101th Session of the General Assembly cannot legally act officially upon legislation which has been pre-filed with the Clerk of the House, there is nothing to prohibit the informal and unofficial consideration of such legislation.

Yours very truly,

M. Elizabeth Crum
Assistant Attorney General

Footnotes

- 1 Furthermore, there are no extant committees during this period since House Rule 4.2 provides in part:
As soon as practicable after the members have been sworn in and have taken their seats, the following Standing Committees shall be appointed to serve until the next General Election with the indicated number of members appointed thereto. (Emphasis supplied.)
Consequently, the committees of the 100th Session died with sine die adjournment. House Rule 4.2 further provides: 'No member shall be appointed on a committee before he has been sworn in and taken his seat. . . .' Thus the members elected to the 101th Session who have not been sworn and seated are not yet qualified to serve on House committees.

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