

Opinion No. 17

**Statutes—State Employees—Federal
Security Act**

HELD: Where a legislative act fails to prescribe an effective date, the act is ineffective for any purpose until July 1 of the year of enactment.

May 31, 1955.

Mr. John F. Sasek, Secretary
Public Employees Retirement
System
Sam W. Mitchell Building
Helena, Montana

Dear Mr. Sasek:

Chapter 270, 1955 Session Laws of Montana, provides for coverage of certain employees of the State of Montana and its political subdivisions under the Federal Social Security Act. Chapter 270 calls for certain enumerated preliminary administrative steps, including authorization of a referendum by the Governor and a vote on the referendum by employees of the political unit.

You ask the earliest date these steps may take place.

Section 43-507, R.C.M., 1947, provides:

"Every statute, unless a different time is prescribed therein, takes effect on the first day of July of the year of its passage and approval."

Chapter 270, *supra*, does not prescribe an effective date. It might be noted that in its initial form, Chapter 270, *supra*, provided for immediate force and effect, but that during its legislative processing this provision was dropped. Chapter 270, then, becomes effective July 1, 1955, and no steps can be performed under the Act prior to July 1, 1955.

The rule requiring this conclusion is that a statute speaks as of the time it takes effect and not as of the time it was passed. 50 Am. Jur., Statutes, Section 500. Montana adopted this rule as early as 1908, when in *State vs. Northern Pac. Ry. Co.*, 36 Mont. 582, 93 Pac. 945, 15 LRA, (N.S.) 134, the Supreme Court said:

"Legislation is not effective for **any purpose** until it becomes operative." (Emphasis supplied.)

This rule was reiterated with approval in *Peterson vs. Livestock Commission*, 120 Mont. 140, 181 Pac. (2d) 152, where our court denied the Livestock Commission authority to apply standards provided by an act already passed but not yet effective.

This view is shared by many jurisdictions (See 50 Am. Jur., Statutes, Section 500). The California court, in *Kennelly vs. Lawery*, 149 Pac. (2d) 476, stated the rule to be:

" . . . The law is established in California that a statute has no force whatever until the date it takes effect; that until the time arrives when it is to become effective the statute is inoperative for **any purpose and all acts** purporting to have been done under it prior to its effective date are void . . ." (Emphasis supplied.)

The legislature has fixed the effective date of the bill herein considered as July 1, 1955. I can discover no authority for finding any earlier effective date for any portion of the Act. For state and local employees, the Act represents a great gain, and that gain should not be jeopardized by any premature preparatory acts.

It is therefore my opinion that no act or step may be taken pursuant to State participation under the Federal Social Security Act until July 1, 1955.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.