

In conclusion, please be advised that the net fees, fines and penalties collected by the Fish Commission under the Motor Boat Law shall be retained by the Fish Commission for use in its new duties as transferred to it by Act 197 of 1976.

Sincerely yours,

CONRAD C. M. ARENSBERG
Deputy Attorney General

VINCENT X. YAKOWICZ
Solicitor General

ROBERT P. KANE
Attorney General

OFFICIAL OPINION NO. 77-3

Item Veto by Governor—Law Passed by General Assembly Over Veto—Resulting Action Constitutes One Law—Form of Citation.

1. Article IV, § 16 of the Pennsylvania Constitution construed.
2. Article III, § 1 of the Pennsylvania Constitution construed.
3. Governor's item veto of Senate Bill 1599, Printer's No. 2017 (1976) construed and analyzed.
4. The act of July 9, 1976 (P.L. 1461, No. 53-A) construed.

Harrisburg, Pa. 17120
February 18, 1977

Honorable C. DeLores Tucker
Secretary of the Commonwealth
Harrisburg, PA

Dear Secretary Tucker:

You have asked my opinion as to the legal consequences arising from the action of the General Assembly in overriding Governor Shapp's item veto of Senate Bill 1599, Printer's No. 2017.

Senate Bill 1599 was finally approved by the General Assembly and transmitted to the Governor on June 30, 1976. The bill provided a 4.5 million dollar appropriation to the Western Psychiatric Institute and Clinic. On July 9, 1976, the Governor exercised his item veto power pursuant to Article IV, § 16 of the Pennsylvania Constitution, by reducing the amount of the appropriation to four million dollars and approving the bill in that amount.¹ The General Assembly voted on Sep-

1. Governor Shapp indicated his reasons for the item veto in a message sent to the Senate on July 9, 1976. He stated that he withheld "... approval from the balance of this appropriation because funds in excess of \$4,000,000 were not included in my 1976-77 budget for this purpose."

tember 21, 1976 to restore the five hundred thousand dollars disapproved by the Governor.

Article IV, § 16 of the Constitution provides, inter alia, that “. . . items of appropriation disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the Executive veto.” In the case of Senate Bill 1599, the bill was forwarded to the State Department in accordance with law for safekeeping and printing, and notice of the partially disapproved item was given the Senate by gubernatorial communication. The bill was removed from the table in the Senate on September 20, 1976, and a motion to override Governor Shapp’s item veto was adopted on the same day by a vote of 47—0. The bill was then forwarded to the House of Representatives, which adopted a motion to override the item veto on September 21, 1976, by a vote of 191—3. Clearly, the constitutional requirements for enactment have been satisfied and the additional five hundred thousand dollars is available to the Western Psychiatric Institute and Clinic.

The remaining question concerns the relation of the item passed over the Governor’s veto to the bill as approved by the Governor. The Constitution provides in Article III, § 1 that “No law shall be passed except by bill” Since only one bill is involved in the present case, only one law or act has been passed. Therefore, the act should be cited with reference to the original date of approval by the Governor; in this case Senate Bill 1599 is the Act of July 9, 1976 (P.L. 1461, No. 53-A). Of course, the appropriation item finally approved by the override vote was not enacted on July 9; that item became law on September 21, the day of the vote to override in the second house. (See, Official Opinion of the Attorney General 76-9). Therefore, in order to avoid any confusion in cases where the date of enactment of a particular item is critical, Senate Bill 1599 should be cited as “the act of July 9, 1976 (P.L. 1461, No. 53-A) with items restored by vote of the General Assembly, September 21, 1976.” This form should be used in the future for any appropriation acts containing items repassed over the Governor’s veto.

It is, therefore, my opinion and you are so advised that the portions of an appropriation bill approved by the Governor, together with any items which have been repassed over the Governor’s veto, constitute one act. You are further advised that any act containing items repassed over a gubernatorial veto shall be cited with reference to the date of the Governor’s partial approval and the date of the override vote.

Sincerely yours,

CONRAD C. M. ARENSBERG
Deputy Attorney General

VINCENT X. YAKAWOCZ.
Solicitor General

ROBERT P. KANE
Attorney General