

Attended

February 3, 1966

Honorable Anthony F. Vollack
State Senator
Denver, Colorado

Dear Senator:

You have directed my attention to Senate Bill No. 26 introduced in the State Senate during this Second Regular Session of the 45th General Assembly. The bill is entitled "A Bill for an Act Repealing the Food Sales Tax Credits or Refunds, as Enacted by Chapter 300, Session Laws of Colorado 1965."

You raise two questions:

1. Is this a bill for raising revenue?
2. If it is a revenue raising bill, doesn't the Constitution of the State of Colorado require it to be introduced in the House of Representatives?

Both questions are answered in the affirmative.

That Chapter 300, Session Laws of Colorado 1965, is a revenue raising act within the meaning of Section 31, Article V of the Constitution of Colorado, cannot be questioned. The record shows that the act originated in the House of Representatives as required by Section 31 of Article V.

Although Senate Bill No. 26 has the effect of decreasing the revenue to be collected pursuant to Chapter 300, it must be considered as a bill for raising revenue within the meaning of our Constitution. The phrase "raising revenue" as applied to legislative acts does not imply an increase in revenue. Anderson vs. Ritterbusch, 22 Okla. 761, 98 Pac. 1002; Perry Co. et al. vs. Selma, 58 Ala. 546; In Re Opinion of the Justices, 238 Ala. 389, 190 So. 824.

"If the proposed act affects the amount of revenue which flows into the State treasury, either as an original measure, or as an amendment to one already in existence, it is one to raise revenue as provided in the first part of section 70. . . ." In re Opinion of Justices, 223 Ala. 369, 136 So. 589.

The Section 70 above referred to provides that all bills for raising revenue must originate in the House of Representatives.

In another Alabama case, the Supreme Court said:

"Any bill which amends an act to raise revenue in respect to the amount thus to be raised, becomes when enacted a part of such act thereafter effective as though it had been incorporated in it as originally enacted.

"The right of the Senate to propose amendments to revenue measures applies to pending bills which originate in the House, and not to such measures after they have been enacted. The amendatory bill is therefore itself a bill to raise revenue. (citing cases)

"We think therefore that Senate Bill No. 283 violates Section 70 of the Constitution." In re Opinion of the Justices, 238 Ala. 289, 190 So. 824.

Research fails to disclose any decisions of the Colorado Supreme Court on the questions presented.

I adopt the conclusions of the Alabama Supreme Court as related above. Again, in specific answers to your questions, it is my opinion that Senate Bill No. 26 is a bill "for raising revenue" within the meaning of Section 31, Article V of the Colorado Constitution, and the fact that it was introduced in the Senate offends Section 31 which provides that such bills must originate in the House of Representatives.

Very truly yours,

DUKE W. DUNBAR
Attorney General

DWD:eg



Senate Chamber

State of Colorado

Denver

January 31, 1966

Honorable Duke W. Dunbar
Attorney General
State Capitol
Denver, Colorado

Dear Mr. Dunbar:

Senate Bill No. 26, by Senator Gill, entitled "A Bill for an Act Repealing the Food Sales Tax Credits or Refunds, as Enacted by Chapter 300, Session Laws of Colorado 1965", has been introduced in the Senate of the General Assembly during the current 1966 Session.

This bill has been ordered printed for further consideration by the Senate Committee on Finance. Whether this bill could be constitutionally enacted into law has been questioned by several members of the General Assembly. I would therefore request your opinion as to the following question:

Is Senate Bill No. 26, by Senator Gill, introduced in the Senate of the Forty-fifth General Assembly, at its Second Regular Session, a bill for raising revenue (enabling its passage during this session without having been designated in writing by the Governor), and, if so, is it a bill for raising revenue which the Constitution of the State of Colorado requires to have been introduced in the House of Representatives?

Yours very truly,

A large, flowing handwritten signature in dark ink, which appears to read "Anthony F. Vollack". The signature is written over the typed name and title below it.

Anthony F. Vollack
Senator from Jefferson County

AFV:j