

state, and since this bill has been introduced, I have had repeated instances of Senators on this floor coming to me and pointing out that what is being said here is exactly true. Now the first premise to be considered is the opinion of the Attorney General. We have more laws on our books that you, the Legislature, have sat in here day after day and argued and amended and tried to perfect. You have enacted them into laws. They have been placed on the statutes of this state but your agencies sit calmly by and look at you and say, well, we are not implementing that law. And I defy you to find any place in that Constitution or in the statutes of this state that grant anyone, anyone who has taken an oath of office in this state, not to implement the Constitution and the laws of this state fully. The biggest hang up that we have is the opinion of the Attorney General. Now I have passed out some literature and I have not only recited the specific sections of the Constitution that apply, the statutes that apply but I have taken key phrases out of numerous Supreme Court cases that repeatedly, that repeatedly, say that a law can be held unconstitutional only by the concurrence of five of seven Supreme Court judges, that it is vanity for anyone else to assume that authority, that there is no authority whatsoever for an agency to act or fail to act based on the opinion of an Attorney General, and yet after all of the pain and sweat that was gone through here on malpractice, the Attorney General directed, he did not just offer an opinion, he directed an agency not to comply with the law that you had passed. It goes on and on and on and we sit here complacently in mute silence accepting it. If this is to be your posture, we might just as well all go home and let the Attorney General write the laws and approve the laws. You have the responsibility to your elected constituents to enact legislation in their behalf. The executive department is bound repeatedly to execute the laws that you pass, and if there is to be a question, there is only one place that it can be resolved and that is in the courts. So I am asking in this piece of legislation that where the opinion of the Attorney General is requested and it deals with the matter of constitutionality or lack of constitutionality that we do not all sit back in our rocking chairs and say, well, that is that. We say within ten working days either that agency head charged with the responsibility of implementing that law will do as he is instructed in Constitution and statute and will seek judicial review of his question and will establish as the people of this state provided that it is or is not constitutional, and failing that, that that agency has absolutely no choice but to implement the law that you, the legislators, have enacted. That is my premise. Now I am giving a latitude of ten days in which to commence this action. This is no attempt to browbeat or to harass someone. It is a ten day latitude to take the action that they should take upon the first day they receive that letter, which is, namely, to proceed to determine before the proper authority in this state whether or not an act is constitutional. I cannot believe that you want to sit here and pass laws and have one man or an assistant attorney general or a research student for an assistant attorney general say to the Legislature, sorry, we have estopped what you have spent the week doing. I ask for your support of this act.

SENATOR FRANK LEWIS PRESIDING