

JOURNAL OF THE ASSEMBLY [November 30, 1977]

STATE OF WISCONSIN

Assembly Journal

Eighty-Third Regular Session

WEDNESDAY, November 30, 1977.

The chief clerk makes the following entries under the above date:

AMENDMENTS OFFERED

Assembly substitute amendment 1 to **Assembly Joint Resolution 52** offered by Representative Pabst.

Assembly substitute amendment 1 to **Assembly Bill 248** offered by Representative Gower.

Assembly amendment 1 to **Senate Bill 393** offered by Representative Gower.

Assembly amendment 2 to **Senate Bill 393** offered by Representative Gower.

INTRODUCTION AND REFERENCE OF BILLS

Read first time and referred:

Assembly Bill 1080

Relating to using dogs to hunt bear, requiring bear hunters to wear a back tag and providing a penalty.

By Representatives Day, Kincaid, Lallensack, Fischer, Bradley, Donoghue, Barry, Dandeneau and Loftus.

To committee on Natural Resources.

Assembly Bill 1081

Relating to the date of board of review meetings.

By Representative Barczak, co-sponsored by Senator McKenna, by request of Wisconsin Towns Association.

To committee on Local Affairs.

JOURNAL OF THE ASSEMBLY [November 30, 1977]

Assembly Bill 1082

Relating to the sale of nonprescription drugs.
By Representative Hanson.
To committee on Health and Social Services.

COMMUNICATION

State of Wisconsin
Department of State
Madison

To Whom It May Concern:

Dear Sir: Acts, joint resolutions and resolutions, deposited in this office, have been numbered and published as follows:

Bill, Jt. Res. or Res.	Chapter No.	Publication date
Assembly Bill 218 -----	171 -----	November 23, 1977
Assembly Bill 377 -----	172 -----	November 23, 1977
Assembly Bill 216 -----	176 -----	November 29, 1977
Assembly Bill 585 -----	177 -----	November 29, 1977

DOUGLAS LaFOLLETTE
Secretary of State

COMMITTEE REPORTS

The committee on Revenue reports and recommends:

Assembly Bill 220

Relating to a sales and use tax exemption for food sold in retirement homes to retired persons.

Passage: Ayes: (11) Noes: (0)
To Joint Committee on Finance.

MARLIN SCHNEIDER
Chairperson

JOURNAL OF THE ASSEMBLY [November 30, 1977]

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison

To the Honorable, the Assembly:

The following bills, originating in the assembly, have been approved, signed and deposited in the office of the Secretary of State:

Assembly Bill	Chapter No.	Date Approved
464 -----	189 -----	November 28, 1977
488 -----	190 -----	November 28, 1977
738 -----	191 -----	November 28, 1977

Respectfully submitted,
MARTIN J. SCHREIBER
Acting Governor

GOVERNOR'S VETO MESSAGES

November 28, 1977

To the Honorable Members of the Assembly:

I am returning **Assembly Bill 186** without my approval.

Assembly Bill 186 is intended to provide relief for farmers who must go through burdensome permit procedures in order to maintain their drainage ditches. While the authors of AB 186 have focused attention on a genuine problem, I believe the bill would have a broader application than is intended.

The bill exempts certain artificially created drainage ditches from regulation under the state's navigable waters protection laws, while requiring that ditches created by straightening natural streams would still need a maintenance dredging permit. Such an exemption would allow activities to go unchecked which could seriously damage adjacent public waters and productive private land. The serious consequences of this are pointed out by a current case in Jackson County. A drainage project which would eventually have involved 15,000 acres of wetland in that county has been halted by regulatory action by the Department of Natural Resources (DNR) and the Army Corps of Engineers. Three thousand acres had already been drained for conversion to a potato

and vegetable farming operation. The drainage project, undertaken by interests from outside the county, seriously threatens existing cranberry operations and the Neecedah Wildlife Refuge. DNR is requiring a permit application for the project which involves deepening abandoned ditches to 10 foot depths. Activities in many of those drainage ditches would no longer be subject to regulation under those sections of the statutes if AB 186 becomes law, and protection of the water supply of existing adjacent farming operations would be threatened. Then only the tenuous enforcement authority of the Corps of Engineers would remain (and this only in certain cases) to protect public rights and those of local farmers.

If enacted, the provisions of this bill are certain to be challenged in court. Based upon a 1974 opinion by the Attorney General and a 1977 decision in Dodge County Court concerning state responsibilities for activities in drainage ditches, I can only conclude that this bill would be found to be unconstitutional. Thus, enactment of AB 186 would only serve to prolong the uncertainties and procedural delays farmers face in undertaking routine ditch maintenance. Even if it were allowed to stand, AB 186 does nothing to help farmers whose ditches were created from a natural waterway. AB 186 could actually produce more procedural delay as attorneys for both sides try to establish whether a ditch is entirely artificially created and thus exempt from permit requirements, or whether it was formerly a natural stream and therefore still subject to maintenance dredging permit requirements under s. 30.20.

I have conferred with DNR Secretary Anthony Earl and studied examples of the maintenance dredging permits issued to date by the Department of Natural Resources. Out of 27 applications received in the last year, all but one were approved. The average time for approval was six weeks. I can understand that this could be burdensome for a farmer who needs fast action to clear out silt and debris. I have been assured that the following administrative steps will be taken this winter, effectively reducing the total permit granting time from six weeks to two weeks or less.

(1) The Department will no longer require a public notice of a permit application under s. 31.06. Under the s. 31.06 procedure, the permit application must wait 30 days for action in case anyone requests a hearing on the permit. DNR records indicate only one hearing has been held, and that permit was eventually granted. Given this record, and the need for speed of action, the Department

JOURNAL OF THE ASSEMBLY [November 30, 1977]

will dispense with the notice requirement, thus eliminating the 30 day waiting period.

(2) The Department will amend NR 150 regarding environmental impact statements to make it clear that maintenance dredging does not need an environmental impact statement, eliminating field investigation by an environmental impact staff person. Because there are currently two field investigations, one by the water regulation bureau and one by the environmental impact coordinator, time is lost in processing the permit. Making maintenance dredging a class III action (that is, no environmental impact analysis required) will eliminate one field inspection and speed permit processing.

With these two administrative changes, the real problems pointed out by AB 186 can be largely eliminated.

In addition to the administrative changes to be made by the DNR, I have sent to the authors of AB 186 copies of a draft bill which I believe will eliminate any possible delay in issuance of maintenance dredging permits. The proposed bill is based on work by the Legislative Council. It would free farmers from the need to obtain separate permits for routine maintenance dredging, but would still allow full protection of public rights in navigable waters.

Respectfully submitted,

MARTIN J. SCHREIBER

Acting Governor