STATE OF WISCONSIN

Assembly Journal

Seventy-Eighth Regular Session

FRIDAY, January 26, 1968.

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

COMMUNICATIONS

Department of State
Madison 2 Wisconsin

January 25, 1968.

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 669	289	January 19, 1968
Assembly Bill 1042	290	January 19, 1968
Senate Bill 95	293	January 20, 1968
Senate Bill 157	294	January 20, 1968
Senate Bill 197	295	January 20, 1968
Senate Bill 257	296	January 23, 1968
Senate Bill 387	297	January 23, 1968
Senate Bill 395	298	January 23, 1968
Senate Bill 450	299	January 23, 1968
Assembly Bill 44	300	January 24, 1968
Assembly Bill 219	301	January 24, 1968
Assembly Bill 286	302	January 24, 1968
Assembly Bill 310	303	January 24, 1968
Assembly Bill 579	304	January 25, 1968

Assembly Bill 659	305	January 25, 1968
Assembly Bill 740	306	January 25, 1968
Assembly Bill 1114	307	January 25, 1967
Assembly Bill 1116	308	January 25, 1968
Senate Bill 474	339	January 24, 1968
Assembly Bill 364	314	January 26, 1968
Assembly Bill 620	309	January 26, 1968
Assembly Bill 711	310	January 26, 1968
Assembly Bill 1068	311	January 26, 1968
Assembly Bill 1074	315	January 26, 1968
Assembly Jt. Res. 1		Enrolled as Jt. Res. 58
		Published January 26, 1968

Very truly yours,

ROBERT C. ZIMMERMAN,
Secretary of State.

SPEAKER APPOINTMENTS

The speaker announced the following appointments to the Joint City-State of Madison Planning Committee for the Capitol area. pursuant to chapter 256, Laws of 1967:

Assemblyman Froehlich
Assemblyman Dueholm

NOTICE OF OMISSION

The following communication should have appeared in the journal of the assembly of February 7, 1967.

February 7, 1967.

The Honorable, The Assembly
State Capitol
Madison, Wisconsin

Gentlemen: By **Assembly Resolution 8** an opinion is requested "on the constitutionality of the proposal to submit to the voters of this state as a single and indivisible proposition the proposal to increase the terms of office of the governor and the lieutenant governor from 2 years to 4 years beginning with the election in 1970."

The question is apparently raised because of the language in Article XII, Section 1, of the Wisconsin Constitution, which provides, among other things, "that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately."

In 48 OAG 188 and in 54 OAG 13 the Attorney General considered almost the identical question which is raised by your current resolution. In 48 OAG 188 the Attorney General said at pages 191 and 192:

> "* * * there would appear to be no serious question as to the propriety of covering the offices of governor and lieutenant governor in one amendment. While the lieutenant governor has some separate and independent duties as president of the senate under Art. V, sec. 8, of the constitution, the provisions of that section as well as sec. 7 of Art. V, are directed primarily to his exercise of the powers and duties of the governor in case of the governor's impeachment, removal from office, death, inability from mental or physical disease, resignation, or absence from the state. In other words, the constitutional provisions relating to the governor and lieutenant governor are concerned basically with the discharge of the duties of the state's chief executive office. In a sense the lieutenant Governor is the *alter ego* of the governor, and it would seem to be both incongruous and inconsistent to conclude that an opportunity should be afforded the electors to vote separately on whether each office should be limited to a two-year term as at present or extended to four years.
>
> "Hence, it appears to be entirely proper to leave in one resolution the provision of **Joint Resolution 22, S.**, relating to the extension of the terms of both the governor and lieutenant governor to 4 years. This would appear to be but 'one amendment' for all practical purposes."

This language was quoted with approval in 54 OAG 13 where it was again concluded that a proposed constitutional amendment which would increase the terms of office of both the lieutenant governor and the governor to 4 years could be considered by the people as a single amendment.

There appears to be no reason to deviate from these previous opinions of the Attorney General. I therefore conclude that the proposal to submit to the voters of this state as a single and indivisible proposition the proposal to increase

the terms of office of the governor and the lieutenant governor from 2 to 4 years is in conformity with the constitution.

Sincerely yours,

BRONSON C. LA FOLLETTE,
Attorney General.

The following communication should have appeared in the journal of the assembly of March 1, 1967.

The State of Wisconsin
Legislative Reference Bureau
State Capitol
Madison, Wis. 53702

March 1, 1967.

Hon. Arnold W. F. Langner
Chief Clerk of the Assembly

Pursuant to Joint Rule 18 the deadline for the filing of drafting instructions—for measures which individual members may as a matter of right introduce at any time during the session—is "4:30 p.m. on the 51st day of the Session." For the current session, this deadline occurs on March 3, 1967.

"Filing of drafting instructions" means that the Legislative Reference Bureau must have:

(1) The name of a legislator authorizing the draft. After the expiration of the deadline, this legislator must be one of the sponsors of the measure if it is to be introduced by individual members.

(2) Instructions in sufficient detail to permit the draftsmen of the Legislative Reference Bureau to prepare a draft.

It should be emphasized again that March 3, 1967, is *NOT* the deadline for introduction of bills. Nor is it a deadline requiring that all drafts already requested be ready for introduction by that date. Any requester who has filed his drafting instructions prior to that date may introduce his proposal at any date he wishes—or he may decide not to introduce it at all.

Sincerely yours,

H. RUPERT THEOBALD,
Chief.

EXECUTIVE COMMUNICATIONS

The State of Wisconsin
Executive Office
Madison 53702

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
1004	346	January 22, 1968
1088	347	January 22, 1968
541	348	January 22, 1968

Respectfully submitted,

WARREN P. KNOWLES,
Governor.

January 22, 1968.

The State of Wisconsin
Executive Office
Madison 53702

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
82 (item vetoed)	349	January 23, 1968
525	351	January 23, 1968
915	352	January 23, 1968

Respectfully submitted,

WARREN P. KNOWLES,
Governor.

January 23, 1968.

The State of Wisconsin
Executive Office
Madison 53702

To the Honorable, the Assembly:

The following bill, originating in the Assembly, has been approved, signed and deposited in the office of the Secretary of State.

Assembly Bill	Chapter No.	Date Approved
888	354	January 24, 1968

Respectfully submitted,

WARREN P. KNOWLES,
Governor.

January 24, 1968.

To the Honorable, the Legislature:

I have signed and partially vetoed **Assembly Bill 82.**

The objective of the bill, to broaden educational opportunities through further development and expansion of the state's educational broadcasting facilities, has been a priority recommendation of the Coordinating Council for Higher Education for several years. That objective is in keeping with the widely recognized evidence that television, radio and other electronic devices have a tremendous potential as instructional tools.

The rapid expansion of the range of knowledge and the advances of science demand that modern techniques be employed throughout our educational systems so that the youth of Wisconsin continue to have available the highest possible quality of educational opportunities.

Wisconsin has lagged behind many states in the development and utilization of television as an educational tool. Since 1953 the Educational Broadcasting Board (formerly the State Radio Council) has been charged by state statute to "protect the public interest in educational television" and to preserve certain television channels for educational use in Wisconsin. Similarly, the CCHE was given the responsibility to develop a state plan for educational television. That plan forms the basis of **Bill 82, A.**

It has been argued that in order to benefit from available federal funds appropriated for educational television and to preserve the educational TV channels available in Wisconsin, legislative action such as that contained in **Bill 82, A.** must be implemented promptly. Further, there is at present no coordination of the various educational television projects already underway at several of the state's educational institutions. For these reasons, and because of the strong support given the Bill by the Assembly (90 to 7) and the Senate (21 to 10), I have signed the bill into law while exercising certain item vetoes to correct several defects in the final version of the measure.

There are good arguments on both sides of this issue. Opponents can point accurately to the fact that although the initial appropriation is only $33,900, subsequent operation costs will likely grow to in excess of $700,000 per year. Further, television equipment and facilities are very expensive and the anticipated $700,000 per year cost to the taxpayers could increase sharply unless the corporate bonding authority and other cost factors are watched carefully.

The proponents concede to these cost figures, but argue that ETV will bring about improved educational opportunities at a lesser cost than would be necessary if the advantages of ETV were not utilized.

The continued improvement of education has always been a recognized and desirable goal for the State, and I am persuaded that the opportunity we now have through the use of educational communications can effectively aid us in its accomplishment. Therefore, I am signing the Bill, but caution its administrators that their goal should be improved educational opportunities in proportion to the financial investment, if we are to exercise stewardship in the use of this new program.

The effects of the line item vetoes are as follows:

1. To restore the appropriation and statutory authority for operation of the State Radio Network. I am sure it was not the intent of the Legislature to adversely affect the operation of WHA and the State Radio Network.

2. I have removed the conflict in the sections of the bill governing the membership of the Educational Communications Board. Three separate items in the bill made different provisions for Board membership and duration of terms. As signed, the Bill provides that the Educational Broadcasting Board becomes the Educational Communications Board.

The section of the Bill which would have placed six Legislators on the Board and which was in conflict with another section, has been item vetoed. As stated in Chapter 75, Laws of 1967, (Kellett Bill) and in **Senate Bill 504**, which were passed by both Houses of the Legislature:

> "The 'republican form of government' guaranteed by the constitution contemplates the separation of powers within state government among the legislative, the executive and the judicial branches of the government. The legislative branch has the broad objective of determining

policies and programs and review of program performance for programs previously authorized, the executive branch carries out the programs and policies. . . . It is a traditional concept of American government that the 3 branches are to function separately, without intermingling of authority. . . ."

Placement of Legislators on the Educational Communications Board is contrary to the Declaration of Policy quoted above. It would establish a precedent for direct legislative involvement in educational policy and program planning and could result in "political" considerations influencing Board decisions.

Other minor corrections were made in the Bill through the exercise of the line item veto.

An additional aspect of **Assembly Bill** 82 deserves comment.

It may be argued that a centrally directed educational broadcasting authority cannot effectively function without seriously diminishing local control over elementary-secondary school curricula and class schedules. It can also be argued that by exercising strong central planning and control of educational broadcasting, the Educational Broadcasting Division will be in a position to determine what kinds of programming are "cultural" in nature and that the result will be an undesirable uniformity of exposure to "cultural" experiences.

These and other aspects of the potential impact of educational communications deserve the close and continuing scrutiny of the Educational Communications Board and the Legislature as the provisions of **Assembly Bill** 82 are implemented.

Respectfully submitted,

WARREN P. KNOWLES,
Governor.

January 23, 1968.

To the Honorable, the Assembly:

I am returning **Assembly Bill** 455 without my approval.

This bill provides that as a prerequisite to taking the real estate brokerage licensing exam, an applicant must satisfy one of three requirements: (1) He has been a real estate salesman for at least one year in the five years preceding his application; (2) he is a college graduate; or (3) he has

completed thirty hours of classroom study offered by an approved school within two years prior to his application.

Presently, an applicant for a broker's license must successfully complete an examination given by the Real Estate Commission. The new requirements provided by this bill must be complied with before an applicant will be permitted to write the broker's examination.

I feel compelled to veto this bill because it fails to provide a reasonable transition period during which standards can be established for the approval of schools by the Real Estate Commission and the newly created Educational Advisory Committee and a reasonable opportunity for students to complete the courses offered by these schools.

This bill provides that the new qualifications shall become effective January 1, 1968. As a result, persons seeking to qualify under the provision for thirty hours of classroom study will be unable to take the broker's license examination until the schools which they have attended have been approved. Establishment of approved criteria, investigation of the schools and the actual approval by two different bodies will provide a considerable delay for these persons. Also, those who have spent money and dedicated their time to prepare for the examination in schools which are not eventually approved, or in courses which fail to meet the course content requirements as set forth in the bill, will be required to take another approved course. This would impose for many a considerable hardship in both time and money, especially those who have jobs and families.

Support should be given to those who seek to improve their profession by imposing reasonable licensing requirements. However, where members of a profession seek to impose higher qualifications for new applicants, it should be accomplished in an equitable manner for those seeking admittance.

This bill would create an unjust hardship for persons who have been taking courses in preparation for the broker's license examination. This hardship is not justified by any emergency situation inasmuch as the real estate profession enjoys an excellent reputation in this state. If the qualifications for taking the broker's license examination are to be changed, it should be under a reasonable procedure equitable to those who will be directly affected.

This proposal is inconsistent with the principles set forth under state government reorganization. This bill provides

for the appointment of an Educational Advisory Committee by the Real Estate Commission and requires that both of these bodies approve any school before their courses will qualify a student under the thirty hours' requirement. This approval authority should be vested solely in the Real Estate Commission. The Commission can create an advisory group if it desires, but approval should not be required from both bodies. The Legislature should also provide more explicit guidelines in the legislation as to the standards which will qualify a school for approval by the Commission.

I am returning this bill for further consideration, particularly with respect to establishing a reasonable transition period to the higher educational requirements.

Respectfully submitted,

WARREN P. KNOWLES,
Governor.

January 23, 1968.

To the Honorable, the Assembly:

I am returning **Assembly Bill** 558 without my approval.

This bill establishes specific procedures and requirements to be observed by the state in advertising and awarding of construction contracts with the exception of highway contracts.

Presently, there are very few statutes regulating state governmental agencies in the bidding and awarding of state construction contracts except for highway construction. However, the Department of Administration has observed certain self-imposed guidelines in handling construction contracts. These guidelines have served the public well for they have provided construction contractors an equitable opportunity to bid for state contracts while providing a flexible system in which the public interest has been well represented.

The state's construction activities have become an important financial operation. During 1967, a total of 163 projects were bid involving 2,206 bids. A total of 356 contracts were awarded involving approximately $49,578.000. This state activity has reached such a significant volume that it is in the public interest that statutory procedures be established for the bidding and awarding of construction contracts. Thus. I am in wholehearted agreement with the basic purpose of this proposal.

However, in establishing a statutory procedure, it is imperative that it be reasonably flexible to assure that the public interest is protected as well as the interests of the private contractors. The procedure established by this bill fails to meet these requirements and would result in unwarranted construction delays and additional costs to the public.

The attorney general has advised that under this bill the negotiation of bid prices with low bidders when the low bids exceed funds authorized and available would be prohibited. Re-bidding of the project would be required. This is an expensive proposition since redesigning is necessary; competition is lessened because some contractors refuse to rebid after exposing their cost estimates and the entire process of publication and bidding must be repeated. This process involves a minimum construction delay of from three months to a year. It often results in higher costs due to our inflationary economy and postpones badly needed facilities, such as for our expanding educational institutions.

As a practical matter, it is not possible to guarantee that project bids will be within the project budgets, particularly during inflationary periods. Forty-two projects or 26 per cent of these bid in 1967 exceeded available funds. In one-half of these cases, re-bidding was avoided by negotiations, which is a common practice in the construction industry. However, present state policy has limited negotiations to cases where changes amount to less than five per cent of the total contract.

The practice of negotiations under reasonable limitations is essential in any procedure if the public interest is to be protected. The negotiation procedure should not be prohibited as proposed in this bill. Members of the construction industry themselves support the practice of negotiation as it benefits them in terms of saving time and expense.

Negotiations might be possible under this bill if the Governor waived the bidding requirements by declaring that an "emergency" exists. However, this authority is inadequate as a substitute to the normal negotiation procedure. This bill fails to define or to provide guidelines for the determination of what constitutes an "emergency." Would a delay of a new dormitory at a crowded campus if re-bidding were required constitute an "emergency"? Would expected increased costs on a large project due to inflation during a

construction delay due to re-bidding constitute an "emergency"?

The negotiations procedure is beneficial to both the state and construction industry. If the Governor is to be permitted to waive bidding procedures by finding an "emergency" to exist, the principles of good government dictate that some guidelines be provided for determination of what constitutes an "emergency." Desgruntled bidders could subject the Governor's determination of an "emergency" to court review, claiming an abuse of discretion. This would result in construction delays to the project involved regardless of the merits of the suit. Should a bidder prevail in such an action, damages and voidance of contracts could result.

If it is intended that the Governor should waive the bidding requirements liberally to enable negotiations to continue as in the past, then the requirements in this bill serve no useful purpose. If he is to use this authority discriminately, many contracts which would presently be negotiated will have to be re-bid to the public's detriment. The state's construction program is too important to subject it to an indefinite and confusing procedure which will surely create serious problems in the future.

This bill fails to provide sufficient flexibility in other aspects of the bidding procedure.

(1) A minimum 45-day bid period is required for all state construction contracts over $5,000. There are many simple projects where such an extended period for bidding is not feasible.
(2) Project plans and specifications must be available on the day of publication of the first advertisement for bids or the project will have to be entirely rescheduled and re-advertised. Occasionally, events occur which would prevent compliance with this requirement. Presently, these are compensated for by extending the bid period.
(3) Errors in bids discovered by the contractor prior to bid openings result in severe penalties for the contractors. Even proponents of this bill have indicated more equitable and reasonable provisions would be desirable.

Based upon the foregoing reasons, I feel compelled to return this bill for additional consideration. I am in agreement with the goal of establishing definite regulations to govern

the advertising, bidding and awarding of state construction contracts.

Until the Legislature has an opportunity to consider this matter further, I have directed the Department of Administration to take immediate steps to establish administrative rules and regulations relating to these activities. I am requesting that they consult with representatives of the construction industry prior to the establishment of such rules and regulations. The control of "bid shopping" in the bidding of state construction contracts was one of the aims of this bill and this problem should be considered in the discussion by the Department with the representatives of the construction industry.

Respectfully submitted,

WARREN P. KNOWLES,
Governor.

January 24, 1968.

To the Honorable, the Assembly:

I am returning **Assembly Bill** 545 without my approval.

This bill attempts to amend section 59.97 (2) (a) as set forth in the Wisconsin Statutes of 1965. This amendment would require that a majority of the members of the agency designated by the county to deal in all zoning matters must reside in rural districts.

Chapter 77, Laws of 1967, became effective on July 22, 1967, and substantially revised section 59.97 of the statutes. Section 3 of this act repealed 59.97 (2) (a), and an entirely different provision for a planning and zoning committee was created.

As a result of the enactment of Chapter 77, Laws of 1967, this bill attempts to amend a statutory provision which has been repealed. The new section 59.97 (2) (a) is so dissimilar that this bill could not be effective, and to sign it would only create confusion and unnecessary expense in processing and publication.

Because this bill could not be effective, I am returning it to you without my approval.

Respectfully submitted,

WARREN P. KNOWLES,
Governor.

January 24, 1968.