

STATE OF WISCONSIN

# Assembly Journal

Eighty-First Regular Session

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MONDAY, April 8, 1974.

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

The following is a list of bills, joint resolutions and resolutions in the possession of the Assembly at the end of floorperiod IV on March 29, 1974 and, therefore, adversely disposed of pursuant to **Assembly Joint Resolution 13:**

**Assembly Bills.** 1, 3, 17, 21, 30, 37, 38, 39, 47, 48, 49, 50, 52, 56, 61, 70, 72, 76, 77, 78, 87, 92, 99, 101, 102, 110, 114, 116, 117, 123, 130, 138, 144, 145, 154, 155, 158, 161, 163, 164, 165, 166, 168, 171, 192, 195, 197, 204, 206, 210, 220, 221, 227, 234, 255, 256, 261, 264, 271, 272, 274, 278, 284, 287, 293, 301, 302, 305, 308, 316, 318, 321, 323, 324, 328, 337, 341, 343, 345, 346, 348, 349, 351, 358, 362, 366, 368, 374, 378, 380, 382, 387, 392, 395, 397, 398, 399, 409, 415, 416, 419, 420, 421, 425, 426, 427, 434, 440, 442, 445, 447, 452, 453, 455, 469, 470, 471, 473, 475, 476, 484, 487, 489, 490, 492, 497, 498, 505, 506, 507, 510, 512, 516, 517, 519, 520, 524, 527, 528, 530, 532, 545, 548, 549, 550, 552, 554, 556, 557, 561, 570, 575, 576, 578, 582, 586, 591, 592, 598, 616, 619, 620, 624, 626, 628, 630, 631, 636, 639, 640, 642, 643, 655, 656, 657, 659, 665, 666, 667, 668, 672, 674, 684, 691, 692, 693, 694, 700, 711, 712, 717, 718, 721, 722, 730, 732, 738, 742, 749, 750, 752, 755, 758, 759, 760, 761, 762, 765, 771, 772, 774, 781, 782, 785, 786, 790, 791, 792, 801, 802, 803, 806, 810, 811, 812, 817, 822, 823, 825, 826, 827, 828, 834, 835, 843, 844, 848, 849, 851, 852, 853, 854, 859, 860, 863, 864, 868, 869, 870, 871, 872, 873, 874, 882, 891, 898, 899, 900, 901, 903, 904, 905, 906, 912, 913, 914, 915, 921, 923, 927, 928, 936, 939, 940, 948, 950, 958, 960, 961, 963, 965, 969, 970, 977, 982, 984, 990, 994, 997, 998, 999, 1002, 1004, 1005, 1007, 1008, 1009, 1012, 1013, 1017, 1020, 1022, 1034, 1035, 1036, 1041, 1043, 1044, 1047, 1048, 1052, 1055, 1059, 1060, 1061, 1063, 1065, 1066, 1067, 1070, 1071, 1073, 1074, 1075, 1077, 1080, 1081, 1082, 1087, 1088, 1089, 1094, 1098, 1097, 1099, 1101, 1103, 1109, 1110, 1111, 1113, 1117, 1118, 1119.

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**Assembly Joint Resolutions.** 7, 33, 35, 46, 48, 49, 59, 60, 79, 82, 85, 96, 105, 106, 108, 111, 114, 118, 119, 121, 123, 124, 125, 129, 130, 132, 134, 135, 136, 137, 139, 140, 142, 143, 144, 147 and 148.

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**Senate Bills.** 1, 10, 12, 35, 41, 45, 46, 47, 58, 59, 61, 62, 70, 76, 84, 87, 89, 90, 91, 107, 109, 114, 115, 117, 119, 122, 124, 125, 126, 127, 128, 130, 139, 142, 147, 150, 151, 153, 154, 155, 157, 158, 168, 169, 176, 182, 193, 227, 228, 242, 250, 256, 261, 269, 270, 274, 275, 306, 308, 314, 316, 327, 328, 330, 344, 347, 354, 358, 360, 361, 362, 365, 377, 378, 381, 386, 387, 400, 409, 410, 412, 413, 425, 428, 431, 433, 435, 439, 440, 445, 451, 459, 465, 466, 470, 471, 472, 473, 477, 478, 479, 486, 490, 492, 493, 506, 508,

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Senate Joint Resolutions. 1, 9, 17, 21, 31, 34, 35, 39, 45, 51, 56, 59, 61, 68, 86, 101, 110, 111, 113 and 124.

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### COMMITTEE REPORTS

The committee on Enrolled Bills reports and recommends:

**Assembly Joint Resolution 58,**  
**Assembly Joint Resolution 131,**  
**Assembly Joint Resolution 133,**  
**Assembly Joint Resolution 145,**  
**Assembly Bill 89,**  
**Assembly Bill 109,**  
**Assembly Bill 134,**  
**Assembly Bill 175,**  
**Assembly Bill 213,**  
**Assembly Bill 239,**  
**Assembly Bill 241,**  
**Assembly Bill 247,**  
**Assembly Bill 275,**  
**Assembly Bill 391,**  
**Assembly Bill 402,**  
**Assembly Bill 408,**  
**Assembly Bill 412,**  
**Assembly Bill 443,**  
**Assembly Bill 493,**  
**Assembly Bill 500,**  
**Assembly Bill 509,**  
**Assembly Bill 511,**  
**Assembly Bill 541,**  
**Assembly Bill 547,**  
**Assembly Bill 565,**  
**Assembly Bill 567,**  
**Assembly Bill 600,**  
**Assembly Bill 601,**  
**Assembly Bill 602,**  
**Assembly Bill 613,**  
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**Assembly Bill 646,  
Assembly Bill 740,  
Assembly Bill 754,  
Assembly Bill 796,  
Assembly Bill 809,  
Assembly Bill 836,  
Assembly Bill 857,  
Assembly Bill 865,  
Assembly Bill 886,  
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Assembly Bill 1300,  
Assembly Bill 1308,  
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Assembly Bill 1351,  
Assembly Bill 1352,  
Assembly Bill 1354,  
Assembly Bill 1362,  
Assembly Bill 1387,  
Assembly Bill 1408,  
Assembly Bill 1478,**

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**Assembly Bill 1511,  
Assembly Bill 1514,  
Assembly Bill 1541,  
Assembly Bill 1542,  
Assembly Bill 1543,  
Assembly Bill 1544,  
Assembly Bill 1547,  
Assembly Bill 1560, and  
Assembly Bill 1567.**

Correctly enrolled.

**GERVASE HEPHNER,  
Chairman**

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COMMUNICATION

State of Wisconsin  
Department of State  
Madison 53702 .

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. No.	Chapter No.	Publication date
<b>Assembly Bill 838</b> -----	169-----	April 2, 1974
<b>Assembly Bill 926</b> -----	170-----	April 2, 1974
<b>Assembly Bill 837</b> -----	179-----	April 4, 1974

Respectfully submitted,  
**ROBERT C. ZIMMERMAN,**  
Secretary of State.

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State of Wisconsin  
State Ethics Board

March 28, 1974

To the Honorable, the Assembly

In compliance with section 552r, Chapter 90, laws of 1973, the State Ethics Board has conducted a study of the representation by state public officials of private interest before departments for financial gain. The board's report on the study has been distributed to each member of the Assembly.

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As indicated in the report, the State Ethics Board will present to the governor and to the legislature its recommendations for proposed legislation at a later date.

Sincerely,  
**CHARLES N. EGAN, JR.**  
Executive Director

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**State of Wisconsin  
Claims Board**

**March 20, 1974**

**Mr. William Nugent  
Senate Chief Clerk  
State Capitol  
Madison, Wisconsin 53702**

**Dear Mr. Nugent:**

Enclosed is a copy of the report and recommendation of the State Claims Board covering claims heard on February 25, 1974.

The amounts recommended for payment under \$500 have, therefore, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board. The Board is preparing the bill on the award over \$500 and will submit it to the Joint Committee on Finance for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members as to the nature of the claims which come before it for consideration.

Sincerely,  
**EDWARD MAIN**  
Secretary

Received and placed on file in the office of the chief clerk. Pursuant to joint rule 36 the list is printed in full in the senate journal only and appears there beginning on page 2515.

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The State of Wisconsin  
Department of Justice  
Madison 53702

April 5, 1974

The Honorable, The Assembly  
State Capitol  
Madison, Wisconsin 53702

Dear Representatives:

By Assembly Resolution 42, you have requested my opinion concerning the constitutionality of Assembly Bill 655, commonly referred to as the "no-fault automobile insurance" bill.

FLOORPERIOD IV. Subpar (c) of 1973 Assembly Joint Resolution 13, provided:

"All measures still in the possession of either house at the adjournment on March 29, 1974, shall be deemed adversely disposed of for the 1973-75 biennial session period of the legislature. Any measures which would be adversely disposed of under this provision may be kept alive for further consideration if the legislature adopts a joint resolution to extend floorperiod IV beyond the scheduled date or provides for an extraordinary session, but in that case the measures to be continued shall be specifically enumerated in the joint resolution."

Since Assembly Bill 655 was still in the possession of the Assembly at the time of adjournment on March 29, 1974, by virtue of subpar. (c), above quoted, it must be deemed to have been adversely acted upon by the Assembly. I am informed that no action was taken to keep Assembly Bill 655 alive pursuant to the second sentence of subpar. (c).

Consequently, the issue is moot. This office, as well as the courts, generally declines to address issues that are moot. Therefore, I am obliged to decline to respond to Assembly Resolution 42.

Sincerely yours,  
ROBERT W. WARREN,  
Attorney General

**JOURNAL OF THE ASSEMBLY (April 8, 1974)**

**April 5, 1974**

**The Honorable, The Assembly  
State Capitol  
Madison, Wisconsin 53702**

**Dear Representatives:**

**By Assembly Resolution 68, you have requested my opinion concerning the constitutionality of Assembly Bill 419, which would require balanced school instruction on all major theories of the origin of life.**

**FLOORPERIOD IV. Subpar. (c) of 1973 Assembly Joint Resolution 13, provided:**

**“All measures still in the possession of either house at the adjournment on March 29, 1974, shall be deemed adversely disposed of for the 1973-75 biennial session period of the legislature. Any measures which would be adversely disposed of under this provision may be kept alive for further consideration if the legislature adopts a joint resolution to extend floorperiod IV beyond the scheduled date or provides for an extraordinary session, but in that case the measures to be continued shall be specifically enumerated in the joint resolution.”**

**Since Assembly Bill 419 was still in the possession of the Assembly at the time of adjournment on March 29, 1974, by virtue of subpar. (c), above quoted, it must be deemed to have been adversely acted upon by the Assembly. I am informed that no action was taken to keep Assembly Bill 419 alive pursuant to the second sentence of subpar. (c).**

**Consequently, the issue is moot. This office, as well as the courts, generally declines to address issues that are moot. Therefore, I am obliged to decline to respond to Assembly Resolution 68.**

**Sincerely yours,  
ROBERT W. WARREN,  
Attorney General**



JOURNAL OF THE ASSEMBLY (April 8, 1974)

April 9, 1974

The Honorable, The Assembly  
State Capitol  
Madison, Wisconsin  
Dear Representatives:

Assembly Resolution 39 (1973) requests my opinion whether a town may constitutionally increase the membership of the town board to five pursuant to sec. 60.19 (1) (a), (am), and (c), Stats.

Section 60.19 (1) (a), Stats., as amended by ch. 248, Laws of 1971, provides in part:

“60.19 Election of officers; special provisions. (1) (a) Biennially, in the odd-numbered years, at the annual town meeting each town shall elect the following officers: 3 supervisors except when the number of supervisors has been increased under par. (am), \*\*\*”

Section 60.19 (1) (am), Stats., as created by ch. 248, Laws of 1971, provides:

“(am) Any town board authorized to exercise village powers may, by ordinance, increase the number of supervisors to no more than 5. If the number of supervisors is increased to 4, the town shall elect 2 supervisors each year. If the number is increased to 5, the town shall elect 3 supervisors in odd-numbered years and 2 supervisors in even-numbered years.”

It will be noted that the provisions of sec. 60.19 (1) (am), Stats., apply to any town, regardless of population.

Section 60.19 (1) (c), Stats., was an outgrowth of ch. 356, Laws of 1969, and originally applied to towns having a population in excess of 7,500. It was amended by ch. 155, Laws of 1971, to provide:

“(c) Increases or reductions in membership of town boards shall take effect from January 1 of the first odd-numbered year following the most recent federal decennial or special census, but shall not be deemed to create any vacancy on a town board prior to the spring election. Commencing with the 1971 spring election or any spring election thereafter the town board of any town having a population of 2,500 or more may, subject to the authorization of the majority of the electors voting at an annual or special town meeting, consist of 5 supervisors elected at large. Three members shall constitute a quorum of 5-member town boards.”

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It is noted that the population figure in (c) does not require towns over 2,500 to have a five-man board, but makes the adoption optional in such towns. Section 60.19 (1) (am), Stats., contains no population standard, is optional as to adoption, and permits town boards of four or five members.

Whereas the Constitution has been amended to delete the provision as to uniformity of county government, Art. IV, sec 23, Wis. Const., still provides:

"The legislature shall establish but one system of town government, which shall be as nearly uniform as practicable  
\* \* \*"

*State ex rel. Peck v. Riordan*, (1869) 24 Wis. 484, involved the constitutionality of a statute which provided for a county board of eight supervisors in a certain county which under the general statute would have only three. The court held the statute violated the "uniform as practicable" test of Art. IV, sec. 23, Wis. Const. At pages 488-489 the court stated:

"\* \* \* Now, certainly, the uniformity in the system is broken, when one county, comprising two assembly districts, has a board of supervisors consisting of eight members, and another county, of the same population, has a board of three.  
\* \* \* The uniformity of the system would seem to be as much broken by diversity in the number which should constitute the board in counties of the same population, as by diversity in the distribution of the powers which the board should execute. \* \* \* The constitution, then, has regard as well to uniformity in the system as to unity in the system; and wherever uniformity is practicable, it must be preserved.  
\* \* \*"

When the uniformity clause was applicable to counties, it was held that counties could be classified on the basis of population, providing that there was reasonable basis for such treatment, and that limited changes could be made in county government where it is not practicable to carry on the usual government in a particular class of counties. Details of carrying out functions of county government could vary provided the system remained untouched.

*State ex rel. Milwaukee County v. Boos*, (1959) 8 Wis. 2d 215, 99 N.W. 2d 139;

*State ex rel. Sonneborn v. Sylvester*, (1965) 26 Wis. 2d 43, 132 N.W. 2d 249;

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*West Allis v. Milwaukee County* (1968) 39 Wis. 2d 356, 370, 371, 159 N.W.2d 36.

It is submitted that the same rules are applicable to towns which are still governed by the uniformity clause of the Constitution.

An opinion by a former Attorney General which appears in 50 OAG 10 (1961) dealt with the uniformity provisions as to towns. It was there stated that the legislature could not authorize a town meeting to elect, at its option, either three or five town supervisors. It was further stated that diversity of the number of supervisors based on a classification of towns by population only might be violative of the constitutional provision if, in fact, three-supervisor government is workable and feasible in a large as well as a small town, or in a populous as well as a thinly-populated town.

Whereas there is a strong presumption as to the constitutionality of a duly-enacted statute, I am of the opinion that the court in a proper case would hold that sec. 60.19 (1), (am), and (c), Stats., violates the uniformity clause of the Constitution.

Sincerely yours,  
ROBERT W. WARREN,  
Attorney General

CAPTION:

If proper case were brought, a court would probably hold that sec. 60.19 (1), (am), and (c), Stats., violate the uniformity of town government constitutional requirement.

EXECUTIVE COMMUNICATIONS

State of Wisconsin  
Office of the Governor

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
319 -----	178-----	April 3, 1974
837 -----	179-----	April 3, 1974

Sincerely,  
PATRICK J. LUCEY,  
Governor.

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LEGISLATIVE REFERENCE BUREAU CORRECTIONS

**Senate amendment 1 to Assembly Bill 239**

In enrolling, the following corrections were made: On line 2 of this amendment substitute "18" for "16"; and in line 6, after "(c)" insert a period.

**Assembly substitute amendment 1 to Assembly Bill 809**

In enrolling the following corrections were made based on the drafting records on file in the legislative reference bureau:

1. On line 5, delete "204.30 (3) (b)".
2. After line 5, insert: "SECTION 1. 204.30 (3) of the statutes is renumbered 204.30 (3) (b)."
3. On line 6, substitute "SECTION 2." for "SECTION 1."
4. On line 8, "s." is substituted for "ss."

**Assembly amendment 5 to assembly substitute amendment 1 to Assembly Bill 1046**

In enrolling the following correction was made: On line 4, delete the comma after "every" and insert a comma after "sidewalk".

**Assembly amendment 8 to assembly substitute amendment 1 to Assembly Bill 1046**

On line 2, "line 4" should correctly read "line 5". This correction is based on the drafting records of assembly amendment 8, on file in the legislative reference bureau.

**Assembly amendment 5 to assembly substitute amendment 1 to Assembly Bill 1354**

In enrolling the following correction was made: On line 4, before "conven-" insert a comma.

**Assembly substitute amendment 1 to Assembly Bill 1354**

In enrolling, the following corrections were made:

1. On page 16, line 2, substitute "noes" for "nos".
2. On page 17, lines 22 and 23, the references "189.14, 189.15" should correctly read "289.14, 289.15".

**Senate amendment 2 to Assembly Bill 1387**

In line 10, substitute "(16)" for "(15)".

**Assembly amendment 7 to Assembly Bill 1511**

In enrolling the following change was made: On line 2, "page 4" should correctly read "page 5".