

JOURNAL OF THE ASSEMBLY (June 7, 1974)

STATE OF WISCONSIN

Assembly Journal

Eighty-First Regular Session

FRIDAY, June 7, 1974.

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

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
Assembly Bill 241	210	May 30, 1974
Assembly Bill 511	211	May 30, 1974
Assembly Bill 836	212	May 30, 1974
Assembly Bill 876	213	May 30, 1974
Assembly Bill 1237	214	May 30, 1974
Assembly Bill 1076	217	May 30, 1974
Assembly Bill 89	222	May 31, 1974
Assembly Bill 213	223	May 31, 1974
Assembly Bill 314	224	May 31, 1974
Assembly Bill 493	225	May 31, 1974
Assembly Bill 500	226	May 31, 1974
Assembly Bill 602	227	May 31, 1974
Assembly Bill 796	228	May 31, 1974
Assembly Bill 1026	229	May 31, 1974
Assembly Bill 1027	230	May 31, 1974
Assembly Bill 1028	231	May 31, 1974
Assembly Bill 1042	232	May 31, 1974
Assembly Bill 1057	233	May 31, 1974
Assembly Bill 1351	234	May 31, 1974
Assembly Bill 1542	235	May 31, 1974

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Assembly Bill 1543	----- 236	----- May 31, 1974
Assembly Bill 391	----- 237	----- June 4, 1974
Assembly Bill 354	----- 238	----- June 4, 1974
Assembly Bill 740	----- 240	----- June 4, 1974

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

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
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
247	----- 286	----- May 23, 1974
509	----- 287	----- May 23, 1974
886	----- 288	----- May 23, 1974
1560	----- 289	----- May 23, 1974
787	----- 290	----- May 28, 1974
1278	----- 291	----- May 28, 1974
1544	----- 292	----- May 28, 1974
766	----- 301	----- May 29, 1974
Partial Veto		
175	----- 302	----- May 29, 1974
Partial Veto		
541	----- 304	----- May 29, 1974
922	----- 305	----- May 30, 1974
Partial Veto		
275	----- 306	----- May 30, 1974
1547	----- 307	----- May 30, 1974
1210	----- 308	----- May 30, 1974
890	----- 309	----- May 30, 1974
1033	----- 311	----- May 30, 1974
1541	----- 312	----- May 30, 1974
754	----- 313	----- May 30, 1974

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402 -----	315 -----	May 31, 1974
962 -----	316 -----	May 31, 1974
613 -----	317 -----	May 31, 1974
412 -----	319 -----	May 31, 1974
1189 -----	320 -----	May 31, 1974

Sincerely,
PATRICK J. LUCEY,
Governor.

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
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
538 -----	321 -----	June 4, 1974
109 -----	325 -----	June 4, 1974
567 -----	326 -----	June 4, 1974
699 -----	327 -----	June 4, 1974
751 -----	328 -----	June 4, 1974

Sincerely,
MARTIN J. SCHREIBER,
Acting Governor.

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
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:

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Assembly Bill	Chapter No.	Date Approved
533 -----	329-----	June 6, 1974
Partial Veto		
239 -----	332-----	June 6, 1974

Sincerely,
PATRICK J. LUCEY,
Governor.

GOVERNOR'S VETO MESSAGES

To the Honorable, the Members of the Assembly:

I have approved **Assembly Bill 175** as Chapter 302, Laws of 1973, and deposited it in the office of the Secretary of State.

I have, however, exercised a partial veto to remove Section 25 from the bill. That section would have provided an increase of \$100,000 for each of the next two fiscal years in the appropriation for State aids to municipal water safety patrol units.

It is necessary to remove this additional appropriation because the bill is under-funded. As originally proposed, the boat registration fee structure would have generated an additional \$1.9 million in revenue through fiscal year 1976-'77. That would have been enough to provide the funding mandated by the bill for expanded safety training, State law enforcement and aids for local enforcement. As passed, however, the bill cuts back the boat registration fees so that only enough revenue is provided to fund the required boat safety courses plus either the increased cost of State law enforcement or the increased local aids.

Experience indicates that the current level of aids for local enforcement are more than sufficient to meet the need. The State is now spending nearly twice as much for such aids as the total cost of property damage reported from boat accidents. It appears that public compliance with boat safety standards is high and that additional aids for local law enforcement may not be necessary.

In addition to reducing the additional appropriation for aids to localities, the State will have to reduce its expenditures for the State law enforcement program to keep the boat fund in balance. In order to avoid a perpetual deficit in this fund, aids and costs must be held

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down or, alternatively, additional revenues provided through increased boat registration fees.

PATRICK J. LUCEY,
Governor.

To the Honorable, the Assembly:

I am returning **Assembly Bill 357** without my approval.

Although this bill has several useful provisions, particularly those relating to the conduct of school board elections after school district reorganizations, there are two provisions which compel my veto.

In 1971, the law was changed with my approval to provide that school board elections in districts of all types be conducted at the spring elections. This bill would allow common school districts and union high school districts to return to the old method of electing school board members either on the day of, or at the annual meeting.

Election of school board members is as important as the election of any other public officials. I cannot see any justification for electing members of the school board on a different basis than other local officials. The spring election provides the best opportunity for the greatest number of persons to participate in local elections. School board members should be elected at that time.

Proponents of this provision have asserted that it is necessary to give more significance to the annual meeting which still must be held in common and union high school districts. That argument merely highlights the vestigial character of the annual meeting.

The significance of that meeting ought not depend on whether an election is conducted at the same time. Furthermore, in cases where the election would be conducted on the day of, rather than at the annual meeting, it is obvious that the election itself could not give added significance to the meeting.

Proponents of this provision have also argued that school board elections are too costly when conducted at the spring election. The argument seems to be that in some years, only the school board election will be on the spring ballot. While this may occur, it is likely to be the exception rather than the rule, particularly since there is a statewide election for Supreme Court Justice on the spring ballot in at least 7 years out of every 10. Furthermore, the greater opportunity for electoral participation afforded by the

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formal election process outweighs the cost of conducting the election.

The second provision requiring disapproval of the bill is that which would allow school districts to number each seat on the school board. The effect of this provision is to create separate races for school board seats even though each seat separately contested would represent the same constituency. This provision eliminates an elector's unrestricted right to choose from among all the candidates. In the absence of some plan of apportionment designating separate constituencies for each member of the board, such limitation is completely without justification.

Even though this bill has some sound provisions, the two provisions which frustrate an elector's right to vote are so detrimental to the principles of representative government that I cannot approve this bill.

Sincerely,
PATRICK J. LUCEY,
Governor.

To the Honorable, the Assembly:

I have approved **Assembly Bill 533** as Chapter 329, Laws of 1973, and deposited it in the office of the Secretary of State.

The merger creating the University of Wisconsin System required alteration of the membership of the State Teachers' Retirement Board because 4 of the 7 members of the Board were designated representatives of the former separate University Systems. In addition, the present membership of the State Teachers' Retirement Board substantially over-represents University faculty members and severely under-represents public school teachers who make-up about 80% of the persons affected by the teachers' retirement system.

This bill accommodates the need to conform membership on the Board to the realities of the merged University of Wisconsin System. It also meets to an acceptable, but not necessarily desirable degree the need for reapportionment of membership on the Board. In addition, the bill provides some (but not enough) public representation by designating a member from the Wisconsin School Board Association.

After careful study, I have made several partial vetoes which I believe are consistent with the basic purpose of the bill and will

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serve to improve it. First, I have removed from Section 1 of the bill (Section 15.165(5) of the Act) all requirements that members of the Board be appointed from nominations made by various independent and statutory associations. In this respect, I have also removed Section 3 of the bill (Section 42.30 of the Act) which would have created a University System Retirement Association.

One of the basic purposes of the bill is to insure that all persons with an interest in the Teachers' Retirement System have an opportunity for appointment to the Board. The particular associations given the power to nominate are not necessarily now, nor will they be in the future, representative of all the persons affected by the Teachers' Retirement System. Moreover, the creation of a statutory University System Retirement Association which does not have any purpose other than the nomination of members of the Teachers' Retirement Board, does not insure that truly representative nominations will be made.

As a practical matter, any governor making an appointment to the Teachers' Retirement Board will consider the recommendations of groups representing those persons eligible for the appointment. Consistent with this, I will certainly solicit and consider the recommendations of the Wisconsin Education Association Council, the Wisconsin Federation of Teachers, or any other teacher or faculty group concerning any appointments which I will have to the new Board.

Secondly, I have removed that restriction upon the public school teacher members of the Board which would have required them to be teachers "from the elementary and secondary public schools." This restriction would have made ineligible for appointment to the Board all retired public school teachers and those teachers employed by the State or any county or any Cooperative Educational Service Agency. This is certainly inconsistent with the general purpose of this bill which is to afford all persons interested in the State Teachers' Retirement System an opportunity to be represented on the Board.

Finally, I have removed subsections (1) and (2) from Section 4 of the bill. These provisions relating to transitional appointments would require replacing University of Wisconsin System representatives with new appointment from the University faculties. This would perpetuate for a time the over-representation of the University faculties on the Board. These provisions appear to be the result of a drafting error inasmuch as earlier versions of the bill proposed to replace the retiring University System members with

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appointees from other groups which stand to gain additional representation under the terms of this bill.

In any event, since this bill will not be effective until after the expiration of the terms of two former University faculty representatives, separate transitional provisions relating to these seats are not required. The re-creation of the Board by this bill, after expiration of those terms, leaves vacancies on the Board to be filled in accordance with the new system of representation provided by the bill.

Merger has required that the Board be re-constituted at this time. However, further consideration should be given to the apportionment of Board memberships and the possible provision of additional public seats. Further consideration should also be given to the selection process so that all those with an interest in the Teachers' Retirement System are certainly afforded an opportunity for appointment to the Board. These issues should be made early orders of business by the next Legislature.

Sincerely,
PATRICK J. LUCEY,
Governor.

To the Honorable, the Assembly:

I am returning **Assembly Bill 547** without my approval.

I recently approved 1973 **Assembly Bill 356** (Chapter 162) which was the product of an extensive study by a special Legislative Council committee. That committee after a careful review of the role of the Legislature with respect to administrative rules, proposed legislation which reaffirmed the Joint Committee for Review of Administrative Rules as the legislative vehicle for overseeing the administrative rule-making procedure.

This bill would give the appropriate standing committee of either house the power to approve or disapprove any proposed rule. This goes far beyond the provision of Chapter 162 allowing for prior standing committee review of proposed rules and thereby seriously limits the duties and responsibilities of the Joint Committee for Review of Administrative Rules.

We have not had an opportunity to operate under the new provisions of Chapter 162. It is therefore too soon to make major changes in the policies adopted in that Act. For this reason, I am disapproving the bill.

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I am also aware of the Attorney General's opinion of May 20, 1974, in which he concludes that an administrative rule may not be suspended or revoked by joint resolution of the Legislature (whether or not authorized by law) or by action of a legislative standing or joint committee. In the Attorney General's view, there may be some situations where the Legislature can empower itself or one of its committees to approve or disapprove administrative rules, but such power would have to be subject to judicial review and other limitations not provided by this bill. The Attorney General's opinion causes doubt as to the constitutionality of this bill and provides a further basis for its disapproval.

Sincerely,
PATRICK J. LUCEY,
Governor.

To the Honorable, the Assembly:

I have approved **Assembly Bill 766** as Chapter 301, Laws of 1973, and deposited it in the office of the Secretary of State.

I have exercised a partial veto to clarify the meaning of Section 33.16(6). The intent of that section is to provide that not less than 25% of the biennial appropriation for State aids be spent in rehabilitation districts located in the northern part of the State. I have removed the reference to an annual allocation of this appropriation so that it is clear that all State aids will be allocated each biennium on this basis.

Sincerely,
PATRICK J. LUCEY,
Governor.

To the Honorable, the Assembly:

I am returning **Assembly Bill 809** without my approval.

This bill would provide that liability insurance issued for motor vehicles operated by common carriers of property and contract motor carriers, exclude from coverage and liability any injury or damage occurring as a result of certain loading or unloading operations. The purpose of this bill is to allocate the risks for such operations between the motor carrier and the consignor and consignee. Under the bill, any liability of the carrier terminates once its transportation equipment is moved to that place designated for the physical loading or unloading operations.

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Apart from the deficiency due to the vagueness of the term "transportation equipment" (which may refer to a truck as well as a piece of accessory equipment used for loading or unloading), this bill also seriously limits insurance coverage now available to third persons who may sustain injury or damage as a result of loading or unloading operations. Under Wisconsin's motor vehicle insurance law, indemnification made available to a named insured must also be made available for those "operating" the vehicle with the permission of the named insured. This omnibus coverage requirement has been liberally construed by the Wisconsin Supreme Court to cover many loading and unloading operations beyond those that would be covered under this bill.

The "omnibus" clause was intended and has been applied to provide broad coverage under motor vehicle liability insurance for all persons who might be injured as a result of the operation or use of any vehicle. Any liability issues between a motor carrier and the consignor or consignee of goods using its service can be resolved in ways which do not limit the application of the omnibus clause. Furthermore, the need for resolution of such issues does not justify lessening the coverage now provided all persons by the omnibus clause.

Sincerely,
PATRICK J. LUCEY,
Governor.

To the Honorable, the Assembly:

I am returning **Assembly Bill 892** without my approval.

This bill would have submitted to a referendum among the certificate-holders of Menominee Enterprises, Inc., the following question:

"Shall the federal government restore the Menominee to tribal status?"

The question of restoration has already been determined by Act of Congress and consequently, a referendum on this question at this time would not be meaningful. Restoration is now in the process of implementation and any referendum would likely be a burden on that effort as well as an unnecessary cost for the State. For these reasons, I have disapproved this bill.

Sincerely,
PATRICK J. LUCEY,
Governor.

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To the Honorable, the Assembly:

I have approved **Assembly Bill 922** as Chapter 305, Laws of 1973, and deposited it in the office of the Secretary of State.

This bill is an important and innovative piece of legislation. It represents a carefully considered legislative consensus developed on the basis of the findings of the Solid Waste Recycling Task Force. I have reviewed this bill with these considerations in mind.

After careful review, however, I have determined that three partial vetoes are essential as improvements to the bill.

First, I have removed Section 14 of the bill which requires a declaratory judgment action to be brought by the Attorney General on behalf of the Wisconsin Solid Waste Recycling Authority to determine various issues relating to the legality of the Authority and the constitutionality of the bill. By exercising this veto, I do not mean to imply that it is unnecessary to have a court test of the important legal issues raised by this bill. I believe, however, that the legal issues can and will be raised in another and more appropriate manner.

To direct the Attorney General to represent the Wisconsin Solid Waste Recycling Authority is inconsistent with the Authority's status as an entity independent of State government. It is important to the constitutionality of this bill that the independence of the Authority be established. This principle is not enhanced if the independent entity is afforded legal representation by a State official.

Furthermore, since State funding is provided for the start-up operations of the Authority, it is important that the Authority's validity be established before these funds are spent. Therefore, it is most appropriate that the litigation be determined in the context of whether or not this appropriation properly can be made. The Secretary of Administration will administer the funds appropriated by this bill in such a way as to create a justiciable controversy that will best raise the legal and constitutional issues involved with this bill.

Second, I have removed from Sections 3 and 4 of the bill the \$1,500,000 appropriation for advanced planning, engineering, and design. To the extent that this appropriation involves the State in

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the operations of the Authority it possibly jeopardizes the constitutionality of the bill.

Furthermore, if the bill's legality is tested by withholding any appropriation from the Authority, the advanced planning money will not be available until the completion of the litigation. If the validity of the Authority is established, it will then have borrowing capability enabling it to raise funds for planning and other purposes through the use of short term debt issues. In that case, the Authority will not have further need for state monies.

Finally, I have removed from Section 11 of the bill (Section 499.02(1) of the act) the per diem compensation of \$100 for members, and \$200 for the chairman, of the Authority. Wisconsin has a long history of citizen participation in government for little or no compensation. Able persons have given much of their time and talent to the state as well as to local governments. At the state level for example, members of some of the most important boards and commissions such as the Boards of Regents, Health and Social Services, Natural Resources and the like receive no compensation for their services.

I would be remiss, however, in not acknowledging the inequities in the present system. Some members of boards and commissions are paid, but none as much as would be paid to members of the Recycling Authority under this bill. By setting the highest level of compensation in an already inequitable system, this bill exacerbates the present inequities -- particularly when it is recognized we are now not at all compensating members of the Housing Finance Authority, a board with responsibilities comparable to those of the Board of the Recycling Authority.

The Legislature should undertake a review of compensation for citizen members of boards and commissions. Such a review should address itself to determining the level of compensation, if any, as well as alleviating the inequities that presently exist. In the meantime, however, I am confident we will be able to find able and public-spirited citizens willing to accept appointment to the Wisconsin Solid Waste Board of the Recycling Authority.

Sincerely,

PATRICK J. LUCEY,

Governor.

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To the Honorable, The Assembly:

I am returning **Assembly Bill 954** without my approval.

The purpose of this bill was to allow a court reporter employed in the Milwaukee County Court system to transfer to the Milwaukee County Circuit Court system without jeopardizing his Milwaukee County retirement benefits.

This is a special bill introduced to accommodate the transfer of one employee from employment by one judge to another. I have been advised, however, that the person who this bill was designed to benefit does not intend to transfer his employment from the County Court to the Circuit Court. Accordingly, there is no particular need for this bill.

Furthermore, this bill does not represent good public policy. Court reporters are already compensated under a confusing and inefficient system. This bill only furthers that confusion and inefficiency and, therefore, is disapproved on general policy grounds.

Sincerely,
PATRICK J. LUCEY,
Governor.

To the Honorable, the Assembly:

I am returning **Assembly Bill 1514** without my approval.

This bill would grant truckers hauling "raw or unfinished forest products" certain weight tolerances above and beyond the weight limitations placed upon other truckers. Operation of an otherwise overweight truck within these special tolerances would be exempt from prosecution.

Such tolerances are presently granted only to haulers of milk and haulers of "peeled or unpeeled forest products cut crosswise." The present provision with respect to forest products is very difficult to enforce. However, this bill does not make enforcement any easier as the expanded definition of forest products eligible for the tolerance is not any more precise than the existing definition. Apparently, it was intended that this bill be limited so as to allow only haulers of wood chips and wood slabs the same tolerances now accorded haulers of logs. But "raw or unfinished forest products" could also include a wide variety of lumber products such as veneer sheets, flooring, railroad ties, barrel staves, and the like.

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These enforcement problems are compounded by the fact that the bill does not affect Sections 348.19(b) and 348.20(3) of the statutes. Those sections deal with the manner in which the highway weight restrictions are to be enforced against haulers of certain forest products. The definition of affected forest products in those sections is now consistent with the definition of forest products in Section 348.15(3)(b)2. By changing the definition for the latter section, this bill would only further complicate an already chaotic situation.

Exemptions from weight limits such as this bill would grant do not apply to vehicles operating on interstate system highways. To allow our state highways to be damaged by overweight vehicles that would not be allowed on the interstate system is very questionable policy. It is even more suspect when overweight operations are allowed without a special permit and payment of a fee.

This bill extends a privilege not granted the haulers of most products, since the operation of overweight vehicles usually requires a permit and a fee. There is serious question whether the present law ought grant such a privilege. That question needs more careful deliberation than was possible during consideration of this bill which did not even have a public hearing.

Sincerely,
PATRICK J. LUCEY,
Governor.

To the Honorable, the Assembly:

I am returning **Assembly Bill 1567** without my approval.

The purpose of this bill was to provide an additional \$300,000 G.P.R. appropriation to the Board on Soil and Water Conservation Districts for fiscal year 1974-'75. These extra funds are needed for additional technical assistance staff to work on soil and water conservation projects. Additional staff is required to manage new projects made possible because of the release of \$4.5 million in Rural Environmental Assistance Program (REAP) funds previously impounded by the federal government.

The State funding of these new projects was needed immediately, but would not have been available under the bill until after July 1. To meet the immediate need for funding, I requested that a special meeting of the Board on Government Operations be held on May 21, 1974. At that meeting, necessary funds for fiscal

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year 1974-'75 were authorized with the proviso, that Assembly Bill 1567 be vetoed. This action of the Board on Government Operations eliminates any need for the bill and compels its disapproval.

Sincerely,

PATRICK J. LUCEY,

Governor.