

JOURNAL OF THE SENATE

WEDNESDAY, December 3, 1975

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

BILLS INTRODUCED

Read first time and referred:

Senate Bill 695

Relating to interest on inheritance taxes and estate taxes.

By Senator Krueger.

To joint committee on Finance.

Senate Bill 696

Relating to legislative postauditing, creating a joint legislative auditing committee and making appropriations.

By Senators Berger, McKenna and Flynn.

To committee on Audit.

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison, Wisconsin

November 19, 1975.

To the Honorable, the Senate:

I have reappointed all former members of the councils for barbers, cosmetologists and funeral directors to the newly established Examining Boards for these professions.

Although Chapter 30, Laws of 1975, which created the Examining Boards, also reappointed the former council members to the respective boards, the Attorney General has advised me to reappoint the members by my authority. This action and your confirmation will remove any doubt about the legality of the appointments and subsequent board actions. A copy of this letter is attached, as is a list of the appointees for your consideration.

Sincerely,
PATRICK J. LUCEY
Governor

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NOVITZKE, CLARENCE, of Park Falls, as a member of the Funeral Directors and Embalmers Examining Board, to serve for the term ending July 1, 1978.

Read and referred to committee on Judiciary and Consumer Affairs.

WOLFF, WILLIAM, of Whitefish Bay, as a member of the Barbers Examining Board, to serve for the term ending July 1, 1978.

Read and referred to committee on Judiciary and Consumer Affairs.

BISCIGLIA, JOSEPH T., of Kenosha, as a member of the Barbers Examining Board, to serve for the term ending July 1, 1976.

Read and referred to committee on Judiciary and Consumer Affairs.

PETROVSKY, RUDY, of Sussex, as a member of the Barbers Examining Board, to serve for the term ending July 1, 1977.

Read and referred to committee on Judiciary and Consumer Affairs.

ALBEE, EUGENE D., of Burlington, as a member of the Cosmetology Examining Board, to serve for the term ending July 1, 1976.

Read and referred to committee on Judiciary and Consumer Affairs.

CHILDS, LUVENIA VERLINE, of Milwaukee, as a member of the Cosmetology Examining Board, to serve for the term ending July 1, 1976.

Read and referred to committee on Judiciary and Consumer Affairs.

DEARBORN, GERALDINE J., of Prairie du Chien, as a member of the Cosmetology Examining Board, to serve for the term ending July 1, 1977.

Read and referred to committee on Judiciary and Consumer Affairs.

GOTZION, DAVID, of Madison, as a member of the Cosmetology Examining Board, to serve for the term ending July 1, 1976.

Read and referred to committee on Judiciary and Consumer Affairs.

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HAVLIK, RICHARD D., of Montfort, as a member of the Cosmetology Examining Board, to serve for the term ending July 1, 1977.

Read and referred to committee on Judiciary and Consumer Affairs.

HETZER, BESSIE, of Antigo, as a member of the Cosmetology Examining Board, to serve for the term ending July 1, 1976.

Read and referred to committee on Judiciary and Consumer Affairs.

MAROUSEK, VERNICE E., of Madison, as a member of the Cosmetology Examining Board, to serve for the term ending July 1, 1977.

Read and referred to committee on Judiciary and Consumer Affairs.

SCHMIEDER, MARY CONNIE, of Milwaukee, as a member of the Cosmetology Examining Board, to serve for the term ending July 1, 1978.

Read and referred to committee on Judiciary and Consumer Affairs.

DOWNS, WILLIAM J., JR., of Superior, as a member of the Funeral Directors and Embalmers Examining Board, to serve for the term ending July 1, 1976.

Read and referred to committee on Judiciary and Consumer Affairs.

EDISON, KERMIT, of Oshkosh, as a member of the Funeral Directors and Embalmers Examining Board, to serve for the term ending July 1, 1977.

Read and referred to committee on Judiciary and Consumer Affairs.

The State of Wisconsin
Department of Justice
Madison, Wisconsin

September 19, 1975

Dear Governor Lucey:

re: Barbers Examining Board, Cosmetology Examining Board, and Funeral Directors and Embalmers Examining Board.

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Chapter 39, Laws of 1975, the budget bill, appoints all former members of the Barbers Examining Council, Cosmetology Examining Council, and the Funeral Directors and Embalmers Examining Council to the newly created Boards, respectively. In my opinion, these legislative appointments arguably are constitutionally permissible. However, it also can be argued that, while the legislature can establish these boards and provide for the manner of choosing their members, only you have constitutional authority to make specific appointments to these positions.

The constitutional issue can best be resolved by a decision of the state supreme court, but it is reasonable to estimate that presentation of the issue and determination by the court will take at least a year.

At least one of these boards currently desires to act on a matter involved in a contested case. I am also informed that one or more of these boards desire to promulgate rules within the purview of their jurisdiction. The status of the legislative appointees on the boards is therefore a matter of concern, since all actions taken by these boards before a decision by the court as to the legality of the appointment of their members would be legally suspect.

I am informed that you have indicated your willingness to appoint by your authority those members already appointed by the legislature. In keeping with the normal procedure, these gubernatorial appointments will be submitted to the senate for confirmation.

It is my opinion that the gubernatorial appointment of legislatively appointed board members is legally permissible. This procedure should remove any doubt concerning the legality of these boards and their actions.

If the legislature does not have the power to make the appointments, then your appointments, with subsequent senate approval, would be legally valid. On the other hand, if the legislative appointments are valid, your appointment of the board members is a useless act which has no effect on the legality of prior appointment by the legislature. In either event, a challenge to the membership of the boards or to any action taken by the boards would, in my opinion, be unsuccessful.

Sincerely yours

BRONSON C. LAFOLLETTE

Attorney General

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State of Wisconsin

Office of the Governor

Madison, Wisconsin

November 25, 1975.

To the Honorable, the Senate:

Pursuant to the provisions of the statutes governing, I have nominated and with the advise and consent of the senate do appoint Robert H. Dunn, of Madison, as Secretary of the Department of Administration, to succeed Anthony Earl, to serve at the pleasure of the Governor, effective December 15, 1975.

Sincerely,

PATRICK J. LUCEY

Governor

Read and referred to committee on Governmental and Veterans' Affairs.

AMENDMENTS OFFERED

Senate substitute amendment 1 to **Senate Bill 613** by Senator McKenna, by request of Representative Rogers and Lieutenant Governor Schreiber.