

JOURNAL OF THE SENATE [November 9, 1977]

STATE OF WISCONSIN

Senate Journal

1977 Special Session

WEDNESDAY, November 9, 1977.

9:00 A.M.

The senate met.

The senate was called to order by Fred A. Risser, acting president of the senate.

LEAVE OF ABSENCE

By request of Senator Bablitch, with unanimous consent, Senator Cullen was granted a leave of absence for the balance of the morning.

By request of Senator Morrison, with unanimous consent, she was granted a leave of absence from 11:10 A.M. until 12:30 P.M.

The roll was called and the following senators answered to their names:

Senators Adelman, Bablitch, Berger, Bidwell, Braun, Chilsen, Dorman, Flynn, Frank, Harnisch, Keppler, Kleczka, Krueger, Lasee, Lorge, McCallum, McKenna, Maurer, Morrison, Murphy, Offner, Parys, Peloquin, Petri, Radosevich, Risser, Sensenbrenner, Swan, Theno, Thompson and Van Sistine -- 31.

Absent -- Senator Goyke -- 1.

Absent with leave -- Senator Cullen -- 1.

The senate stood for the prayer which was offered by Father Douglas L. Dushack, Associate Pastor of Saint Raphael's Cathedral, Madison.

The senate remained standing and Senator Krueger led the senate in the pledge of allegiance to the flag of the United States of America.

CALENDAR OF NOVEMBER 9

CONVERSE, MARK, of Green Bay, as a member of the Psychology Examining Board, to succeed Georgia Felger, resigned, to serve for the term ending July 1, 1979.

Read.

HENDERSON, DOUGLAS B., of Stevens Point, as a member of the Psychology Examining Board, to succeed John Giebink, whose term has expired, to serve for the term ending July 1, 1980.

Read.

POLDER, DR. GORDON J., of Eau Claire, as a member of the Psychology Examining Board, to serve for the term ending July 1, 1980.

Read.

By request of Senator Bablitch, with unanimous consent, the preceding appointments were considered enmasse.

The question was: Confirmation?

The ayes and noes were required and the vote was: ayes, 32; noes, 0; absent or not voting, 1; as follows:

Ayes -- Senators Adelman, Bablitch, Berger, Bidwell, Braun, Chilsen, Cullen, Dorman, Flynn, Frank, Harnisch, Keppler, Kleczka, Krueger, Lasee, Lorge, McCallum, McKenna, Maurer, Morrison, Murphy, Offner, Parys, Peloquin, Petri, Radosevich, Risser, Sensenbrenner, Swan, Theno, Thompson and Van Sistine -- 32.

Noes -- None.

Absent or not voting -- Senator Goyke -- 1.

So the appointments were confirmed.

Senate Bill 1, Special Session

Relating to the implementation of a court of appeals and making appropriations.

Read a second time.

By request of Senator Theno, with unanimous consent, the senate recessed until 10:55 A.M.

9:12 A.M.

RECESS

10:55 A.M.

The senate reconvened.

RULING OF THE CHAIR

On Monday, November 7, 1977, Senator Sensenbrenner raised the point of order that s. 13.50 (6) and senate rule 54 require the joint survey committee on retirement systems to submit reports on senate substitute amendments 1 and 2 to **Senate Bill 1**, Special Session and that until such reports are received further action on the substitutes is improper. The chair took the point of order on advisement.

Section 13.50 (6) (a) directs that:

No bill or amendment thereto creating or modifying any system for, or making any provision for, the retirement of or payment of pensions to public officers or employes, shall be acted upon by the legislature until it has been referred to the joint survey committee on retirement systems and such committee has submitted a written report on the proposed bill.

Senate Rule 54, *Amendments to be reported*, directs that:

Whenever any bill to which an amendment is pending shall be referred to a committee such amendment shall be reported back to the senate.

The question is whether the statutory language requires each bill and amendment to be referred to the retirement committee and then requires a single written report on the proposed bill; or, whether the statute requires each bill and amendment to be referred to the retirement committee and then requires a written report on the bill *and each amendment*.

A ruling of the chair which has application in this case was made on October 10, 1973 (1973 Senate Journal page 1691) in response to a point of order by Senator McKenna that a retirement bill was improperly before the senate because: 1) a majority of the committee members had not approved the entire report as required in 13.50 (5), and 2) the committee had submitted its report

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recommending adoption of senate substitute amendment 1 while the bill itself was reported without recommendation in violation of 13.50 (6).

The chair ruled in part that, "While the statute is clear that the joint survey committee on retirement systems must make a report on a bill before being acted upon by the legislature, the statutes are silent on the need for a report by the committee on an amendment. However, it is clear that the amendment must be submitted to the committee."

The chair went on to conclude that: (1) a committee report must be received on the original bill with approval of a majority of all the members of the committee, and (2) that amendments must be referred to the committee but that *there is no requirement for a report by the committee on amendments.*"

A glance at language elsewhere in the rules and statutes bear out these conclusions. Joint rule 42(b), for example, mentions a single report for each retirement bill.

"Bills affecting a public retirement fund shall be referred to the joint survey committee on retirement systems under section 13.50 of the statutes...For any such bill the fiscal estimate shall be prepared by the respective joint survey committee at the time the committee prepares its analysis of the bill, and shall be submitted to the legislature as a part of the committee's bill analysis which is then printed as an appendix to the bill."

It is a well-known joint rule, 41(2), that fiscal estimates are required on original bills only and not on substitute amendments or amendments.

Tax exemption bills, which are handled by a statutory committee similar in structure and operation to the joint retirement committee, are required to have only a single report before being considered by the legislature.

These references lead to but one conclusion...that *bills and amendments* must be referred to the retirement committee, but that a written report is required *only on the proposed bill.*

The senate rule 54 requirement that amendments as well as bills be "reported" back to the senate clearly refers to the "report" required under senate rule 27, not the statutory report required by s. 13.50 (6).

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Reports under senate rule 27 are typically brief documents which simply record the action of the committee and the committee's recommendations. Statutory reports from the retirement committee, on the other hand, are very thorough documents which take hours to research and prepare. They are submitted for the purpose of informing the legislature about the effect, cost and desirability of retirement legislation, but they make no recommendation regarding passage or postponement of the legislation.

The purpose of senate rule 54 is to assure that every amendment in a senate committee will be returned to the floor for action, not to require a lengthy and detailed report for each amendment and substitute. To read rule 54 as requiring such a report for each amendment and substitute amendment would be a perversion of the rules and present unlimited opportunity for delay.

For these reasons, the point of order raised by Senator Sensenbrenner is not well taken.

FRED A. RISSER
Acting President

The question was: Adoption of senate amendment 1 to senate substitute amendment 1 to **Senate Bill 1**, Special Session.

Senator Sensenbrenner moved rejection of senate substitute amendment 1.

The ayes and noes were demanded and the vote was: ayes, 8; noes, 25; absent or not voting, 0; as follows:

Ayes -- Senators Berger, Bidwell, Goyke, Krueger, Lasee, Lorge, Murphy and Sensenbrenner -- 8.

Noes -- Senators Adelman, Bablitch, Braun, Chilsen, Cullen, Dorman, Flynn, Frank, Harnisch, Keppler, Kleczka, McCallum, McKenna, Maurer, Morrison, Offner, Parys, Peloquin, Petri, Radosevich, Risser, Swan, Theno, Thompson and Van Sistine -- 25.

Absent or not voting -- None.

So the motion did not prevail.

The question was: Adoption of senate amendment 1 to senate substitute amendment 1?

Senate amendment 1 adopted.

The question was: Adoption of senate amendment 2 to senate substitute amendment 1?

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Senate amendment 2 adopted.

The question was: Adoption of senate amendment 3 to senate substitute amendment 1?

Senator Flynn moved rejection.

The ayes and noes were demanded and the vote was: ayes, 22; noes, 10; absent or not voting, 1; as follows:

Ayes -- Senators Adelman, Bablitch, Braun, Chilsen, Cullen, Dorman, Flynn, Frank, Goyke, Kleczka, Lorge, McCallum, McKenna, Maurer, Offner, Parys, Radosevich, Risser, Sensenbrenner, Swan, Thompson and Van Sistine -- 22.

Noes -- Senators Berger, Bidwell, Harnisch, Keppler, Krueger, Lasee, Murphy, Peloquin, Petri and Theno -- 10.

Absent or not voting -- Senator Morrison -- 1.

So the motion prevailed.

The question was: Adoption of senate amendment 4 to senate substitute amendment 1?

Senate amendment 4 adopted.

Senate amendment 5 to senate substitute amendment 1 to **Senate Bill 1**, Special Session offered by Senators Murphy and Sensenbrenner.

Senator Flynn moved rejection.

The ayes and noes were demanded and the vote was: ayes, 23; noes, 9; absent or not voting, 1; as follows:

Ayes -- Senators Adelman, Bablitch, Braun, Chilsen, Cullen, Dorman, Flynn, Frank, Goyke, Keppler, Kleczka, McKenna, Maurer, Offner, Parys, Peloquin, Petri, Radosevich, Risser, Swan, Theno, Thompson and Van Sistine -- 23.

Noes -- Senators Berger, Bidwell, Harnisch, Krueger, Lasee, Lorge, McCallum, Murphy and Sensenbrenner -- 9.

Absent or not voting -- Senator Morrison -- 1.

So the motion prevailed.

Senate amendment 6 to senate substitute amendment 1 to **Senate Bill 1**, Special Session offered by Senators Murphy, Sensenbrenner and Theno.

Senator Flynn moved rejection.

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The ayes and noes were demanded and the vote was: ayes, 20; noes, 11; absent or not voting, 2; as follows:

Ayes -- Senators Adelman, Bablitch, Braun, Chilsen, Cullen, Dorman, Flynn, Frank, Keppler, McCallum, McKenna, Maurer, Offner, Parys, Peloquin, Radosevich, Risser, Swan, Thompson and Van Sistine -- 20.

Noes -- Senators Berger, Bidwell, Goyke, Harnisch, Krueger, Lasee, Lorge, Murphy, Petri, Sensenbrenner and Theno -- 11.

Absent or not voting -- Senators Kleczka and Morrison -- 2.

So the motion prevailed.

Senate amendment 7 to senate substitute amendment 1 to **Senate Bill 1**, Special Session offered by Senators Murphy, Sensenbrenner and Theno.

Senator Flynn moved rejection.

The ayes and noes were demanded and the vote was: ayes, 16; noes, 16; absent or not voting, 1; as follows:

Ayes -- Senators Adelman, Bablitch, Cullen, Dorman, Flynn, Frank, Keppler, Kleczka, Maurer, Offner, Petri, Radosevich, Risser, Swan, Thompson and Van Sistine -- 16.

Noes -- Senators Berger, Bidwell, Braun, Chilsen, Goyke, Harnisch, Krueger, Lasee, Lorge, McCallum, McKenna, Murphy, Parys, Peloquin, Sensenbrenner and Theno -- 16.

Absent or not voting -- Senator Morrison -- 1.

So the motion did not prevail.

AMENDMENTS OFFERED

Senate amendment 8 to senate substitute amendment 1 to **Senate Bill 1**, Special Session by Senators Murphy and Sensenbrenner.

Senate amendment 9 to senate substitute amendment 1 to **Senate Bill 1**, Special Session by Senators Murphy and Sensenbrenner.

Senate amendment 10 to senate substitute amendment 1 to **Senate Bill 1**, Special Session by Senator Dorman.

Senate amendment 11 to senate substitute amendment 1 to **Senate Bill 1**, Special Session by Senator Goyke.

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Senate amendment 12 to senate substitute amendment 1 to **Senate Bill 1, Special Session** by Senator Goyke.

Upon motion of Senator Bablitch the senate recessed until 3:00 P.M.

12:01 P.M.

RECESS

3:00 P.M.

The senate reconvened.

QUORUM CALL

Senator Bablitch called the attention of the chair to the possible lack of a quorum.

The roll was called and the following senators answered to their names:

Senators Bablitch, Berger, Bidwell, Braun, Chilsen, Cullen, Dorman, Flynn, Frank, Goyke, Harnisch, Keppler, Kleczka, Lasee, Lorge, McCallum, McKenna, Maurer, Morrison, Murphy, Offner, Parys, Peloquin, Petri, Radosevich, Risser, Sensenbrenner, Theno, Thompson and Van Sistine -- 30.

Absent -- Senators Adelman, Krueger and Swan -- 3.

Absent with leave -- None.

The question was: Adoption of senate amendment 7 to senate substitute amendment 1 to **Senate Bill 1, Special Session**?

The ayes and noes were demanded and the vote was: ayes, 19; noes, 14; absent or not voting, 0; as follows:

Ayes -- Senators Berger, Bidwell, Braun, Chilsen, Goyke, Harnisch, Keppler, Kleczka, Krueger, Lasee, Lorge, McCallum, McKenna, Murphy, Parys, Peloquin, Sensenbrenner, Swan and Theno -- 19.

Noes -- Senators Adelman, Bablitch, Cullen, Dorman, Flynn, Frank, Maurer, Morrison, Offner, Petri, Radosevich, Risser, Thompson and Van Sistine -- 14.

Absent or not voting -- None.

So the amendment was adopted.

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The question was: Adoption of senate amendment 8 to senate substitute amendment 1?

Senator Flynn moved rejection.

The ayes and noes were demanded and the vote was: ayes, 22; noes, 11; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Braun, Chilsen, Cullen, Dorman, Flynn, Frank, Goyke, Harnisch, Keppler, Kleczka, McKenna, Maurer, Morrison, Offner, Peloquin, Petri, Radosevich, Risser, Thompson and Van Sistine -- 22.

**Noes -- Senators Berger, Bidwell, Krueger, Lasee, Lorge, McCallum, Murphy, Parys, Sensenbrenner, Swan and Theno -- 11.
Absent or not voting -- None.**

So the motion prevailed.

The question was: Adoption of senate amendment 9 to senate substitute amendment 1?

Senator Flynn moved rejection.

The ayes and noes were demanded and the vote was: ayes, 22; noes, 10; absent or not voting, 1; as follows:

Ayes -- Senators Adelman, Bablitch, Braun, Chilsen, Dorman, Flynn, Frank, Goyke, Keppler, Kleczka, McKenna, Maurer, Morrison, Offner, Parys, Peloquin, Petri, Radosevich, Risser, Swan, Thompson and Van Sistine -- 22.

**Noes -- Senators Berger, Bidwell, Harnisch, Krueger, Lasee, Lorge, McCallum, Murphy, Sensenbrenner and Theno -- 10.
Absent or not voting -- Senator Cullen -- 1.**

So the motion prevailed.

The question was: Adoption of senate amendment 10 to senate substitute amendment 1?

Senate amendment 10 adopted.

By request of Senator Goyke, with unanimous consent, senate amendment 11 to senate substitute amendment 1 was withdrawn and returned to the author.

The question was: Adoption of senate amendment 12 to senate substitute amendment 1?

Senator Kleczka in the chair.

3:44 P.M.

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Senator Flynn moved rejection of senate amendment 12.

The motion prevailed.

Senate amendment 13 to senate substitute amendment 1 to **Senate Bill 1, Special Session** offered by Senators Risser, McKenna and Thompson.

Senator Flynn moved rejection.

The ayes and noes were demanded and the vote was: ayes, 19; noes, 14; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Bidwell, Braun, Chilsen, Cullen, Dorman, Flynn, Keppler, Krueger, Lasee, McCallum, Maurer, Murphy, Petri, Radosevich, Sensenbrenner, Swan and Van Sistine -- 19.

Noes -- Senators Berger, Frank, Goyke, Harnisch, Kleczka, Lorge, McKenna, Morrison, Offner, Parys, Peloquin, Risser, Theno and Thompson -- 14.

Absent or not voting -- None.

So the motion prevailed.

Senator Peloquin moved reconsideration of the vote by which senate amendment 10 to senate substitute amendment 1 was adopted.

The ayes and noes were demanded and the vote was: ayes, 7; noes, 26; absent or not voting, 0; as follows:

Ayes -- Senators Bidwell, Goyke, Harnisch, Krueger, Peloquin, Risser and Sensenbrenner -- 7.

Noes -- Senators Adelman, Bablitch, Berger, Braun, Chilsen, Cullen, Dorman, Flynn, Frank, Keppler, Kleczka, Lasee, Lorge, McCallum, McKenna, Maurer, Morrison, Murphy, Offner, Parys, Petri, Radosevich, Swan, Theno, Thompson and Van Sistine -- 26.

Absent or not voting -- None.

So the motion did not prevail.

Senate amendment 14 to senate substitute amendment 1 to **Senate Bill 1, Special Session** offered by Senators Risser, Thompson and McKenna.

Senator Flynn moved rejection.

The ayes and noes were demanded and the vote was: ayes, 15; noes, 18; absent or not voting, 0; as follows:

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Ayes -- Senators Adelman, Bablitch, Braun, Chilsen, Cullen, Dorman, Flynn, Kleczka, Maurer, Murphy, Offner, Parys, Radosevich, Swan and Van Sistine -- 15.

Noes -- Senators Berger, Bidwell, Frank, Goyke, Harnisch, Keppler, Krueger, Lasee, Lorge, McCallum, McKenna, Morrison, Peloquin, Petri, Risser, Sensenbrenner, Theno and Thompson -- 18.

Absent or not voting -- None.

So the motion did not prevail.

The question was: Adoption of senate amendment 14 to senate substitute amendment 1?

Senate amendment 14 adopted.

Senate amendment 15 to senate substitute amendment 1 to Senate Bill 1, Special Session offered by Senators Risser, McKenna and Thompson.

By request of Senator Risser, with unanimous consent, senate amendment 15 to senate substitute amendment 1 was withdrawn and returned to the author.

Senate amendment 16 to senate substitute amendment 1 to Senate Bill 1, Special Session offered by Senators Peloquin, Harnisch and Theno.

Senator Flynn moved rejection.

Acting president of the senate in the chair.

5:30 P.M.

The question was: Rejection?

The ayes and noes were demanded and the vote was: ayes, 20; noes, 13; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Braun, Chilsen, Cullen, Dorman, Flynn, Kleczka, Lorge, Maurer, Morrison, Murphy, Offner, Parys, Petri, Radosevich, Risser, Sensenbrenner, Thompson and Van Sistine -- 20.

Noes -- Senators Berger, Bidwell, Frank, Goyke, Harnisch, Keppler, Krueger, Lasee, McCallum, McKenna, Peloquin, Swan and Theno -- 13.

Absent or not voting -- None.

So the motion prevailed.

The question was: Adoption of senate substitute amendment 1? Adopted.

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By request of Senator Flynn, with unanimous consent, senate substitute amendment 2 was laid on the table.

Senator Flynn asked unanimous consent that senate substitute amendment 3 be laid on the table.

Senator Krueger objected.

Senator Flynn moved that senate substitute amendment 3 be laid on the table.

The ayes and noes were demanded and the vote was: ayes, 24; noes, 9; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Braun, Cullen, Dorman, Flynn, Frank, Goyke, Harnisch, Keppler, Kleczka, McKenna, Maurer, Morrison, Offner, Parys, Peloquin, Radosevich, Risser, Sensenbrenner, Swan, Theno, Thompson and Van Sistine -- 24.

Noes -- Senators Berger, Bidwell, Chilsen, Krueger, Lasee, Lorge, McCallum, Murphy and Petri -- 9.

Absent or not voting -- None.

So the motion prevailed.

Ordered to a third reading.

By request of Senator Bablitch, with unanimous consent, the bill was considered for final action at this time.

Senate Bill 1, Special Session

Read a third time.

The ayes and noes were required and the vote was: ayes, 24; noes, 9; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Braun, Chilsen, Cullen, Dorman, Flynn, Frank, Goyke, Keppler, Kleczka, McCallum, McKenna, Maurer, Morrison, Offner, Parys, Petri, Radosevich, Risser, Sensenbrenner, Theno, Thompson and Van Sistine -- 24.

Noes -- Senators Berger, Bidwell, Harnisch, Krueger, Lasee, Lorge, Murphy, Peloquin and Swan -- 9.

Absent or not voting -- None.

So the bill passed.

Ordered immediately messaged.

By request of Senator Bablitch, with unanimous consent, the Senate returned to the fourth order of business.

COMMITTEE REPORTS

The committee on Human Services reports and recommends:

Assembly Bill 3, Special Session
Relating to shelter care reimbursement.

Concurrence:

Ayes, 5 -- Senators Thompson, Offner, Braun, Van Sistine
and Petri;

Noes, 0 -- None.

CARL W. THOMPSON
Chairman

Senator Bablitch asked unanimous consent that the senate adjourn in honor of the number one high school football team in the state, Stevens Point.

Senator Risser objected stating that Madison West high school was number one.

Upon motion of Senator Bablitch the senate adjourned until 10:00 A.M. Thursday, November 10.

6:15 P.M.

GUESTS

During today's session, the following visitors honored the senate with their presence:

Sauk County Extension Homemakers, Sauk County, guests of Senator Bidwell.

Arthur Marshall, Madison, guest of Senator Risser.

Dennis N. Moriarty, Canton, Ohio, guest of Senator Risser.

Donald and Lorraine Lieven, guests of Senator McCallum.

John and Jake Spiehmman, Hartford, guests of Senator McCallum.

James Schroepfer, Nekoosa, guest of Senator Harnisch.