

JOURNAL OF THE SENATE

Eighty-Third Regular Session

THURSDAY, December 22, 1977.

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

INTRODUCTION OF RESOLUTIONS

Senate Joint Resolution 57

Directing the legislative council to study ways to strengthen and preserve the family.

By Senators Morrison and Adelman; cosponsored by Representatives Johnson and Wahner.

Read and referred to committee on Human Services.

BILLS INTRODUCED

Read first time and referred:

Senate Bill 637

Relating to adding 50% of the value of tax exempt manufacturing machinery and equipment to the amount of valuation used to calculate shared revenue account distributions.

By Senators Offner and Maurer.

To committee on Education and Revenue.

Senate Bill 638

Relating to election by state motor vehicle inspectors to have creditable service considered as other than protective occupation participant service.

By Senator Offner.

To Joint Survey committee on Retirement Systems.

Senate Bill 639

Relating to exception to the automatic sprinkler system requirement for open parking structures.

By Senator Kleczka; cosponsored by Representative Otte.

To committee on Commerce.

Senate Bill 640

Relating to eligibility for homestead tax credits.

By Senator Offner.

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To committee on Education and Revenue.

Senate Bill 641

Relating to decreasing the amount of rent for public housing authority property that may be used in calculating homestead tax credits.

By Senator Offner.

To committee on Education and Revenue.

Senate Bill 642

Relating to increasing a county treasurer's fees for copies of records.

By Senator Swan, by request of Milwaukee County.

To committee on Governmental and Veterans' Affairs.

Senate Bill 643

Relating to the limitation of premium and coverage discrimination by insurers issuing motor vehicle liability policies.

By Senators Braun, Berger, Parys, Flynn, McKenna and Thompson; cosponsored by Representatives Moody, Lee, Plewa, Leopold, Kirby, Behnke, Norquist, Flintrop, Ferrall, Rooney, Clarenbach, Bear, Becker, Metz, Loftus, Cogg, Czerwinski, Medinger, Soucie, Dueholm, Ward, Tuczynski, Brist and Dandeneau.

To committee on Commerce.

Senate Bill 644

Relating to remedies for damage or injuries caused by animals.

By Senator Sensenbrenner.

To committee on Natural Resources and Tourism.

COMMITTEE REPORTS

The committee on Commerce reports and recommends for introduction:

Senate Bill 645

Relating to sales by and to fermented malt beverages wholesalers, and providing a penalty.

Introduction:

Ayes, 7 -- Senators Parys, Berger, Swan, Goyke, Keppler, Bidwell and Petri;

Noes, 0 -- None.

Read first time and referred to committee on Commerce.

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Senate Bill 646

Relating to closing hours for establishments selling fermented malt beverages and intoxicating liquor.

Introduction:

Ayes, 7 -- Senators Parys, Berger, Swan, Goyke, Keppler, Bidwell and Petri;

Noes, 0 -- None.

Read first time and referred to committee on Commerce.

and further recommends:

Senate Bill 524

Relating to the state's share of airport costs involving building projects or building improvement projects.

Introduction of senate amendment 1:

Ayes, 7 -- Senators Parys, Berger, Swan, Goyke, Keppler, Bidwell and Petri;

Noes, 0 -- None.

Assembly Bill 298

Relating to licensing and supervision of driver schools.

Introduction of senate amendment 3:

Ayes, 7 -- Senators Parys, Berger, Swan, Goyke, Keppler, Bidwell and Petri;

Noes, 0 -- None.

RONALD G. PARYS

Chairman

The committee on Natural Resources and Tourism reports and recommends:

Assembly Bill 432

Relating to establishing a nongame, threatened and endangered species conservation program in the department of natural resources, granting rule-making authority, providing penalties and making an appropriation.

Introduction and adoption of senate amendment 1:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich, Murphy and Theno;

Noes, 0 -- None.

Introduction and adoption of senate amendment 2:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich, Murphy and Theno;

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Noes, 0 -- None.

Introduction and adoption of senate amendment 3:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich,
Murphy and Theno;

Noes, 0 -- None.

Introduction and adoption of senate amendment 4:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich,
Murphy and Theno;

Noes, 0 -- None.

Concurrence as amended:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich,
Murphy and Theno;

Noes, 0 -- None.

Assembly Bill 468

Relating to authorizing the issuance of senior citizen recreation cards permitting free fishing, small game hunting and admission to state parks.

Introduction and adoption of senate amendment 1:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich,
Murphy and Theno;

Noes, 0 -- None.

Concurrence as amended:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich,
Murphy and Theno;

Noes, 0 -- None.

Senate Bill 6

Relating to free admission to state parks and forests for residents 65 years of age or older.

Introduction and adoption of senate amendment 1:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich,
Murphy and Theno;

Noes, 0 -- None.

Passage as amended:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich,
Murphy and Theno;

Noes, 0 -- None.

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Senate Bill 320

Relating to creating a wetlands protection board, establishing a wetlands protection program, granting rule-making authority, making an appropriation and providing a penalty.

Introduction and adoption of senate amendment 1 to senate substitute amendment 1:

Ayes, 4 -- Senators Harnisch, Van Sistine, Radosevich and Theno;

Noes, 1 -- Senator Murphy.

Adoption of senate substitute amendment 1:

Ayes, 3 -- Senators Harnisch, Van Sistine and Radosevich;

Noes, 2 -- Senators Murphy and Theno.

Passage as amended:

Ayes, 3 -- Senators Harnisch, Van Sistine and Radosevich;

Noes, 2 -- Senators Murphy and Theno.

Senate Bill 554

Relating to using dogs to hunt bear, requiring bear hunters to wear a back tag and providing a penalty.

Passage:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich, Murphy and Theno;

Noes, 0 -- None.

Assembly Bill 303

Relating to civil actions for damages for unlawful taking, destruction or possession of certain wild animals, birds and fish.

Concurrence:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich, Murphy and Theno;

Noes, 0 -- None.

Assembly Bill 794

Relating to creating a wetlands protection council, establishing a wetlands protection program, granting rule-making authority, making an appropriation and providing a penalty.

Concurrence:

Ayes, 5 -- Senators Harnisch, Van Sistine, Radosevich, Murphy and Theno;

Noes, 0 -- None.

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Assembly Bill 894

Relating to issuing waterfowl stamps for wetland habitat improvement and waterfowl propagation, and making an appropriation.

Concurrence:

Ayes, 4 -- Senators Harnisch, Van Sistine, Radosevich and Murphy;

Noes, 1 -- Senator Theno.

THOMAS W. HARNISCH
Chairman

PETITIONS AND COMMUNICATIONS

Senate Petition 131

A petition by 32 residents of Kenosha county urging that a public hearing be held on Assembly Bill 321, relating to prohibiting and restricting state and local abortion subsidies.

By Senator Thompson.

Read and referred to Human Services.

The State of Wisconsin
Department of Justice
Madison

December 13, 1977

To the Honorable, the Senate

Senators:

Chapter 260 of the Laws of 1973 created secs. 700.30 and 893.075, Stats., relating to the registration of, payment of fees for and reversion of mineral rights separate from surface fee ownership.

The second section of that legislation directed my predecessor promptly to commence an action seeking a declaratory judgment regarding the constitutionality of the act. This was not done because of the impossibility of manufacturing a justiciable case or controversy, a necessary condition precedent to the exercise of judicial jurisdiction.

The Northwestern and Milwaukee railroads, however, did commence such a suit in the circuit court for Bayfield County, naming Register of Deeds Earl H. Pedersen and then Attorney General Victor A. Miller, and all others similarly situated, as

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defendants. Judge Lewis J. Charles ruled that the chapter violated the due process and equal protection guarantees of the Federal Constitution, and the uniformity of taxation requirement of the Wisconsin Constitution. The chapter was held unconstitutional in its entirety, and the defendants were permanently enjoined from enforcing its provisions.

This office appealed Judge Charles' decision to the state supreme court. On November 14, 1977, the court affirmed the judgement below (*Chicago and Northwestern Transportation Co. et al. v. Pedersen et al.*, No. 75-702), holding the chapter unconstitutional because its enforcement provisions deny procedural and substantive due process. The court was concerned about the lack of notice and opportunity for a hearing before severed mineral rights were lost, and about the reversion of rights to private owners without compensation. The court further determined that the penalty provisions could not be severed from the rest of the legislation. Because of these conclusions the court found it unnecessary to reach the equal protection or uniformity of taxation issues.

The supreme court's action, upholding the injunction against enforcement of secs. 700.30 and 893.075, Stats., by all registers of deeds in Wisconsin, renders those provisions null and void and of no effect.

Sincerely,

BRONSON C. LAFOLLETTE

Attorney General

AMENDMENTS OFFERED

Senate substitute amendment 1 to **Senate Bill 116** by Senator Goyke.

Senate amendment 1 to **Senate Bill 413** by Senator Goyke.

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CHIEF CLERK'S CORRECTION

Suggested by Legislative Reference Bureau

Relating to Senate Bill 624:

On page 4, line 6, substitute "1977" for "1975".

Relating to senate substitute amendment 1 to Senate Bill 422:

On page 1, line 2, delete "(5) (a),".