

STATE OF WISCONSIN

Assembly Journal

Eighty-Fourth Regular Session

WEDNESDAY, August 8, 1979.

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

AMENDMENTS OFFERED

Assembly substitute amendment 1 to **Assembly Bill 124** offered by committee on Education.

Assembly substitute amendment 1 to **Assembly Bill 162** offered by Representative Dorff.

Assembly substitute amendment 1 to **Assembly Bill 218** offered by Representative Kincaid.

Assembly substitute amendment 1 to **Assembly Bill 482** offered by committee on Education.

Assembly substitute amendment 1 to **Assembly Bill 498** offered by Representatives Potter, R. Travis, Roberts and Shoemaker.

Assembly amendment 1 to **Assembly Bill 549** offered by Representatives Roberts and Schneider.

Assembly substitute amendment 1 to **Assembly Bill 549** offered by committee on Education.

Assembly substitute amendment 1 to **Assembly Bill 595** offered by Representative Klicka.

Assembly amendment 1 to **Assembly Bill 665** offered by Representative Coggs.

Assembly amendment 1 to **Assembly Bill 702** offered by Representatives Matty and Vanderperren.

Assembly amendment 1 to **Assembly Bill 726** offered by Representative Klicka.

Assembly amendment 1 to **Assembly Bill 752** offered by Representative Schneider.

INTRODUCTION AND REFERENCE OF PROPOSALS

Read first time and referred:

Assembly Joint Resolution 70

Directing the legislative council to conduct a study regarding a comprehensive state energy policy.

By Representatives Harsdorf, Radtke, Paulson, Hephner, Lorman, Metz, Fischer, Luckhardt, Thompson, Snyder, Laatsch, Dilweg, Young, Gagin, Loftus, DeLong, Merkt, Schmidt, Wagner, Ulichny, Duren, Harer, Shoemaker, R. Travis, Leopold and Coggs.

To committee on Government Operations.

Assembly Joint Resolution 71

Relating to the deletion from the constitution of unnecessary latin terms, and removing an obsolete limitation from the impeachment procedure (first consideration).

By Representatives Jackamonis, Lallensack, Wood, Loftus, Lee, Gagin, Roberts, Laatsch, Metz, Lingren, Thompson, Omernick, Ward, Pabst, Kincaid and Miller, co-sponsored by Senators Offner, Berger, Braun and Van Sistine.

To committee on Government Operations.

Assembly Joint Resolution 72

Directing the legislative council to study existing economic development programs.

By Representatives Becker, Shoemaker, Clarenbach, McClain, Smith, R. Travis, Schneider, Soucie, Lee, Leopold, Medinger, Rooney, Hasenohrl, Merkt, Helbach, Fischer, Flintrop, Metz, Ferrall, Miller and D. Travis, co-sponsored by Senators Braun, Berger, Moody and Adelman.

To committee on Government Operations.

Assembly Bill 808

Relating to payment of attorney fees and legal expenses in actions and proceedings against state officers and employes.

By Representative Roberts, co-sponsored by Senator Kleczka.

To committee on Government Operations.

Assembly Bill 809

Relating to aids in lieu of property taxes for lands acquired by the department of natural resources.

By Representatives Swoboda, Duren, Vanderperren, Kincaid, Medinger, Fischer, Smith and Wood.

To committee on Revenue.

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Assembly Bill 810

Relating to the inmate capacity of the state reformatory.

By Representatives Swoboda, Vanderperren, Kincaid, Rogers, Duren and Smith.

To committee on Criminal Justice and Public Safety.

Assembly Bill 811

Relating to release of liability for the use of ski areas.

By Representatives Thompson and Duren.

To committee on Judiciary.

Assembly Bill 812

Relating to unemployment compensation and the unemployment reserve fund.

By Representative Murray, co-sponsored by Senator Van Sistine, by request of the Council on Unemployment Compensation.

To committee on Labor.

Assembly Bill 813

Relating to revising miscellaneous statutes affecting state administrative procedures.

By Representative Rutkowski, co-sponsored by Senator Adelman, by request of Judicial Council.

To committee on Judiciary.

Assembly Bill 814

Relating to the license fee for outdoor advertising.

By Representative Duren, co-sponsored by Senator Kreul.

To committee on Tourism, Recreation and Economic Development.

Assembly Bill 815

Relating to including as an authorized emergency vehicle privately owned vehicles used by ambulance attendants.

By Representative Duren, co-sponsored by Senator Kreul.

To committee on Health and Social Services.

Assembly Bill 816

Relating to notifying the victims of juvenile delinquents.

By Representative Czerwinski, co-sponsored by Senator Moody.

To committee on Criminal Justice and Public Safety.

COMMITTEE REPORTS

The committee on Highways reports and recommends:

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Assembly Bill 505

Relating to the designation of vehicles which are not abandoned.

Passage: Ayes: (12) Noes: (0)

To committee on Rules.

Assembly Bill 551

Relating to reimbursement to counties and municipalities by the department of transportation for highway work.

Passage: Ayes: (13) Noes: (0)

To committee on Rules.

Assembly Bill 576

Relating to an exception from the limitations on weight, length and number of vehicles in combination for emergency towing operations.

Passage: Ayes: (13) Noes: (0)

To committee on Rules.

Assembly Bill 577

Relating to the display of a red flag on a towed truck.

Passage: Ayes: (13) Noes: (0)

To committee on Rules.

Assembly Bill 612

Relating to equipment standards for motor-driven cycles and providing a penalty.

Passage: Ayes: (13) Noes: (0)

To committee on Rules.

Assembly Bill 635

Relating to the use of antique motor vehicles.

Passage: Ayes: (13) Noes: (0)

To committee on Rules.

Assembly Bill 667

Relating to the composition of county highway committees.

Passage: Ayes: (13) Noes: (0)

To committee on Rules.

Assembly Bill 676

Relating to parking restrictions on private and public property, the requirement for posting parking restrictions and providing a penalty.

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Passage: Ayes: (13) Noes: (0)
To committee on Rules.

Assembly Bill 741

Relating to limiting the liability of parents or sponsors for actions by a person under 18 while operating a motor vehicle.

Passage: Ayes: (12) Noes: (0)
To committee on Rules.

Assembly Bill 760

Relating to an habitual traffic offenders law for certain convictions in the motor vehicle code, revocation of operator's licenses and providing a penalty.

Passage: Ayes: (12) Noes: (0)
To committee on Rules.

Assembly Bill 762

Relating to validation stickers on motor vehicle licenses and providing a penalty.

Passage: Ayes: (12) Noes: (0)
To committee on Rules.

CLETUS VANDERPERREN
Chairperson

COMMUNICATIONS

State of Wisconsin
Department of State
Madison

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.	Chapter No.	Publication date
Assembly Bill 114	35	August 6, 1979

VEL PHILLIPS
Secretary of State

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OPINION OF THE ATTORNEY GENERAL

OAG 68-79

August 1, 1979

Mr. Marcel Dandeneau
Chief Clerk
Legislative Assembly Chamber
State Capitol
Madison, Wisconsin 53702

Dear Mr. Dandeneau:

On behalf of the Committee on Assembly Organization you ask, in effect, how sec. 74.025, Stats., as amended by ch. 418, Laws of 1977, is to be interpreted. The statute deals with the payment of property taxes.

The specific question you have referred to me is:

Whether under s. 74.025 of the statutes, as amended by Chapter 418, Laws of 1977, any penalty for late payment should have been assessed at any time since the enactment of Chapter 418, Laws of 1977, by municipalities on any property tax payment made within 5 days of the prescribed payment date, particularly in cases in which the payment is not mailed but is otherwise delivered to the proper official within the 5 day period.

Chapter 418, sec. 519m, Laws of 1977, changed the statute as follows:

74.025 Postmarking by due date; timely payment.
Whenever in this chapter or in ch. 75 a payment is required to be made by a taxpayer on or before a certain date, ~~such~~ payment shall be considered timely made if mailed in a properly addressed envelope with postage ~~duly~~ prepaid, which envelope is postmarked before midnight of the last date prescribed for the making of ~~such~~ the payment ~~and or~~ if received by the proper official to whom directed within 5 days of ~~such~~ the prescribed date.

Other than changes designed to modernize language, the most significant change was the substitution of the word "or" for the word "and."

You inquire whether the statute may now be interpreted in either of two ways: first, that the payment would be timely if postmarked subsequent to the due date but received by the proper official within

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five days of the prescribed date; and second, that the payment would not have to be mailed at all and would not be considered overdue if received by the proper official within five days of the prescribed date.

I am of the opinion that the statute as amended relates only to payments by mail and does not relate to situations where the taxpayer personally delivers payment to the proper official.

In my opinion the second construction erroneously fails to treat the phrase "if received ... within 5 days" as modifying the preceding phrase "if mailed in a properly addressed envelope with postage prepaid," and in fact inserts a comma prior to the modifying phrase by construction.

The most reasonable interpretation of the amended statute is that the Legislature intended that payment by mail shall be timely if 1) the properly addressed, stamped envelope is postmarked before midnight of the prescribed date, or 2) the payment by mail be received by the proper official within five days of the prescribed date. Such an interpretation allows for timely payment by mail when taxpayer deposits payment in a proper receptacle for United States mail but the post office does not postmark the envelope at all, postmarks it illegibly or does not postmark it until after the prescribed date, provided, however, that the payment is received by mail by the proper official within five days after due date.

Thus, the person whose mailing is timely postmarked need not worry about subsequent delays in the mails, but the person who mails late bears the risk that there will be no delivery within five days of the prescribed date.

Sincerely yours,
BRONSON C. La FOLLETTE
Attorney General

Caption:

Section 74.025, Stats., as amended, applies only to payment of property taxes by mail.