

JOURNAL OF THE SENATE [February 21, 1980]

STATE OF WISCONSIN

Senate Journal

Eighty-Fourth Regular Session

THURSDAY, February 21, 1980.

10:00 A.M.

The senate met.

The senate was called to order by the president of the senate.

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

Senators Adelman, Bablitch, Bear, Berger, Bidwell, Braun, Chilsen, Cullen, Flynn, Frank, Goyke, Hanaway, Harnisch, Johnston, Kleczka, Kreul, Krueger, Lasee, Lorge, McCallum, Moody, Murphy, Offner, Opitz, Radosevich, Risser, Roshell, Strohl, Swan, Thompson and Van Sistine -- 31.

Absent -- Senator Theno -- 1.

Absent with leave -- Senator Maurer -- 1.

The senate stood for the prayer which was offered by Reverend Jerry Knoche, Campus Pastor of Lutheran Campus Center.

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

INTRODUCTION OF BILLS

Read first time and referred:

Senate Bill 570

Relating to claims for certain mining damage, liability of mining companies, statutes of limitation for mining damage claims, providing rule-making authority and making an appropriation.

By Legislative Council.

To committee on Aging, Business and Financial Institutions and Transportation.

Senate Bill 571

Relating to changing stream course.

By Senator Kreul; cosponsored by Representatives R. Travis, Lewison and Hephner.

To committee on Natural Resources and Tourism.

Senate Bill 572

Relating to licenses for open burning of solid waste.

By Senators Kreul and Cullen; cosponsored by Representatives Matty and Barry.

To committee on Natural Resources and Tourism.

Senate Bill 573

Relating to state reimbursement for municipal costs incurred as the result of state action, and making an appropriation.

By Senator Johnston.

To committee on Governmental and Veterans' Affairs.

Senate Bill 574

Relating to computation of pupil membership for purposes of computing state aid and making appropriations.

By Senator Johnston.

To committee on Education and Revenue.

Senate Bill 575

Relating to the use of growing row crops as snowbreaks along highways.

By Senators Van Sistine, Harnisch, Goyke and Thompson; cosponsored by Representatives Vanderperren, Swoboda and Kincaid.

To committee on Agriculture, Labor and Local Affairs.

Senate Bill 576

Relating to campaign contribution procedures, limitations and restrictions, providing penalties and making an appropriation.

By Senators McCallum, Johnston and Hanaway; cosponsored by Representatives Shabaz, R. Travis, Tregoning and Merkt, by request of Governor Lee Sherman Dreyfus.

To committee on Judiciary and Consumer Affairs.

Senator Swan asked unanimous consent that **Senate Bill 576** be withdrawn from committee on Judiciary and Consumer Affairs and be referred to committee on Governmental and Veterans' Affairs.

Senator McCallum objected.

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By request of Senator Bablitch, with unanimous consent, **Senate Bill 576** was withdrawn from committee on Judiciary and Consumer Affairs and referred to committee on Senate Organization.

LEAVE OF ABSENCE

By request of Senator Chilsen, with unanimous consent, Senator Theno was granted a leave of absence.

COMMITTEE REPORTS

The committee on Aging, Business and Financial Institutions and Transportation reports and recommends:

Assembly Bill 302

Relating to the use of paths adjacent to roadways by bicycles and mopeds.

Concurrence:

Ayes, 3 -- Senators Thompson, Moody and Cullen;

Noes, 2 -- Senators Roshell and Bidwell.

Assembly Bill 546

Relating to the governor proclaiming April 4 as senior citizens day.

Concurrence:

Ayes, 5 -- Senators Thompson, Moody, Roshell, Bidwell and Cullen;

Noes, 0 -- None.

Assembly Bill 551

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

Concurrence:

Ayes, 5 -- Senators Thompson, Moody, Roshell, Bidwell and Cullen;

Noes, 0 -- None.

Assembly Bill 198

Relating to minimum motor vehicle liability insurance requirements for school busses.

Introduction and adoption of senate amendment 1:

Ayes, 5 -- Senators Thompson, Moody, Roshell, Bidwell and Cullen;

Noes, 0 -- None.

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Concurrence as amended:

Ayes, 5 -- Senators Thompson, Moody, Roshell, Bidwell and Cullen;

Noes, 0 -- None.

Assembly Bill 271

Relating to miscellaneous changes in the credit union statutes.

Introduction and adoption of senate amendment 1:

Ayes, 5 -- Senators Thompson, Moody, Roshell, Bidwell and Cullen;

Noes, 0 -- None.

Introduction and adoption of senate amendment 2:

Ayes, 5 -- Senators Thompson, Moody, Roshell, Bidwell and Cullen;

Noes, 0 -- None.

Concurrence as amended:

Ayes, 5 -- Senators Thompson, Moody, Roshell, Bidwell and Cullen;

Noes, 0 -- None.

Assembly Bill 401

Relating to retail liquor licenses for restaurants of historical significance.

Introduction and adoption of senate substitute amendment 1:

Ayes, 4 -- Senators Thompson, Moody, Bidwell and Cullen;

Noes, 1 -- Senator Roshell.

Concurrence as amended:

Ayes, 4 -- Senators Thompson, Moody, Bidwell and Cullen;

Noes, 1 -- Senator Roshell.

TIM CULLEN

Chair

The committee on Aging, Business and Financial Institutions and Transportation reports and recommends:

Senate Bill 80

Relating to regulating smoking in public conveyances and places covered and providing a penalty.

Adoption of senate substitute amendment 1:

Ayes, 3 -- Senators Moody, Thompson and Cullen;

Noes, 2 -- Senators Roshell and Bidwell.

Passage as amended:

Ayes, 3 -- Senators Moody, Thompson and Cullen;

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Noes, 2 -- Senators Roshell and Bidwell.

MALMGREN, RICHARD, of Madison, as Securities Commissioner, to succeed Jeff Bartell, to serve for the term ending March 1, 1985.

Confirmation:

Ayes, 5 -- Senators Thompson, Moody, Roshell, Bidwell and Cullen;

Noes, 0 -- None.

Senate Bill 256

Relating to various changes in the banking statutes.

Passage:

Ayes, 5 -- Senators Thompson, Moody, Roshell, Bidwell and Cullen;

Noes, 0 -- None.

Senate Joint Resolution 38

Requesting the department of business development to compile and make available information on the reports and forms that small businesses must submit to state agencies.

Adoption:

Ayes, 5 -- Senators Thompson, Moody, Roshell, Bidwell and Cullen;

Noes, 0 -- None.

Assembly Bill 521

Relating to weight limitations on vehicles transporting forest products and metal scrap.

Concurrence:

Ayes, 3 -- Senators Thompson, Roshell and Cullen;

Noes, 2 -- Senators Moody and Bidwell.

Assembly Bill 576

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

Concurrence:

Ayes, 5 -- Senators Thompson, Moody, Roshell, Bidwell and Cullen;

Noes, 0 -- None.

TIM CULLEN
Chair

PETITIONS AND COMMUNICATIONS

RULING OF THE CHAIR

Assembly Bill 813

Relating to revising miscellaneous statutes affecting state administrative procedures.

Read.

On Thursday, February 7, 1980, Senator Adelman raised the point of order that senate amendment 1 to **Assembly Bill 813** was not germane. The Chair took the point of order under advisement.

Assembly Bill 813 was introduced by request of the Judicial Council to make remedial changes in contested case procedures before state agencies. Senate amendment 1, by contrast, would make changes in agency rule making procedure by: 1) requiring all agencies to adopt as administrative rule decisions in contested cases at the time they are applied to "persons other than parties to the original contested case"; 2) requiring all agencies to adopt rules establishing a process for determining who are parties to a contested case. In effect, then, this amendment makes changes in rule making while the bill does not have that intent.

Senate Rule 50(1) states that the senate shall not consider any amendment which, "...is intended to accomplish a different purpose, would require a title essentially different or would totally alter the nature of the original proposal."

It is the opinion of the Chair that senate amendment 1 would accomplish a different purpose and would alter the nature of the original proposal and therefore the point of order raised by Senator Adelman is well taken.

By request of Senator Berger, with unanimous consent, **Assembly Bill 813** was placed at the foot of the calendar.

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EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison, Wisconsin

February 20, 1980.

To the Honorable, the Senate:

The following bills, originating in the senate, have been approved, signed and deposited in the office of the Secretary of State:

Senate Bill	Chapter No.	Date Approved
508 -----	116 -----	February 20, 1980
339 -----	117 -----	February 20, 1980
509 -----	118 -----	February 20, 1980
87 -----	119 -----	February 20, 1980
235 -----	120 -----	February 20, 1980

Sincerely,
LEE SHERMAN DREYFUS
Governor

MESSAGE FROM THE ASSEMBLY

By Marcel Dandeneau, chief clerk.

Mr. President:

I am directed to inform you that the assembly has concurred in:

Senate Bill 312
Senate Bill 333
Senate Bill 119

Concurred in as amended:

Senate Bill 244, assembly amendment 1 to assembly amendment 1 adopted, assembly amendments 1, 2, 3, 4 and 8 adopted

Senate Bill 260, assembly amendment 1, assembly amendment 2 to assembly amendment 2, assembly amendments 2, 3, 4 and 6 to assembly substitute amendment 1 and assembly substitute amendment 1 adopted

Senate Bill 279, assembly amendment 1

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Passed and asks concurrence in:

Assembly Bill 929
Assembly Bill 1050

Adopted and asks concurrence in:

Assembly Joint Resolution 106
Assembly Joint Resolution 108

MESSAGE FROM THE ASSEMBLY CONSIDERED

Assembly Bill 929

Relating to increasing the penalty for violating the boat toilet law.
By Representatives Potter, Fischer, Lallensack and Otte.

Read first time and referred to committee on Judiciary and Consumer Affairs.

Assembly Bill 1050

Relating to permitting transportation of firewood in excess of registered weight of certain motor trucks and trailers.

By Representatives Hopkins, Conradt, Byers, Kedrowski, Kincaid, Helbach, D. Travis, Potter, Lewison, Gagin, Larson, Donoghue and DeLong, co-sponsored by Senator Kreul.

Read first time and referred to committee on Aging, Business and Financial Institutions and Transportation.

Assembly Joint Resolution 106

Granting the use of the senate and assembly chambers to Wisconsin Y.M.C.A. Youth in Government, Model Legislature in 1980, for the purpose of holding a practice legislative session.

By Representative Schneider.

Read and referred to committee on Senate Organization.

Assembly Joint Resolution 108

Relating to granting the use of the assembly chambers on July 12, 1980, to the Wisconsin Pharmaceutical Association.

By Representative Tregoning.

Read and referred to committee on Senate Organization.

CALENDAR OF FEBRUARY 21

Senate Bill 462

Relating to review and disapproval of administrative rules.

Read.

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The question was: Concurrence in assembly amendment 1?
Concurred in.

MOTIONS

Senator Lorge moved that **Senate Joint Resolution 9** be withdrawn from committee on Human Services and be referred to committee on Senate Organization.

Senator Lorge moved a

CALL OF THE SENATE

Which motion was supported.

The sergeant-at-arms was directed to close the doors and the clerk to call the roll.

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

Senators Adelman, Bablitch, Bear, Berger, Bidwell, Braun, Chilsen, Cullen, Flynn, Frank, Goyke, Hanaway, Harnisch, Johnston, Kleczka, Kreul, Krueger, Lasee, Lorge, McCallum, Moody, Murphy, Offner, Opitz, Radosevich, Risser, Roshell, Strohl, Swan, Thompson and Van Sistine -- 31.

Absent -- None.

Absent with leave -- Senators Maurer and Theno -- 2.

The question was: Shall **Senate Joint Resolution 9** be withdrawn from committee on Human Services and referred to committee on Senate Organization?

The motion did not prevail.

Senator Lorge raised the point of order that the chair did not properly state the question before calling the roll.

The chair took the point of order under advisement.

Senator Lorge moved that **Senate Joint Resolution 10** be withdrawn from committee on Human Services and be referred to committee on Senate Organization.

The question was: Shall **Senate Joint Resolution 10** be withdrawn from committee on Human Services and be referred to committee on Senate Organization?

The ayes and noes were demanded and the vote was: ayes, 10; noes, 21; absent or not voting, 2; as follows:

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Ayes -- Senators Bidwell, Chilsen, Hanaway, Johnston, Kreul, Krueger, Lasee, Lorge, Murphy and Opitz -- 10.

Noes -- Senators Adelman, Bablitch, Bear, Berger, Braun, Cullen, Flynn, Frank, Goyke, Harnisch, Kleczka, McCallum, Moody, Offner, Radosevich, Risser, Roshell, Strohl, Swan, Thompson and Van Sistine -- 21.

Absent or not voting -- Senators Maurer and Theno -- 2.

So the motion did not prevail.

The question on which the call of the senate was put having been decided the call was raised.

CALENDAR OF FEBRUARY 21

Senate Bill 189

Relating to collective bargaining units consisting of supervisors and providing a penalty.

Read a second time.

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

Senator Kleczka asked unanimous consent that **Senate Bill 189** be referred to joint committee on Finance.

Senator Harnisch objected.

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

Senator Harnisch raised the point of order that senate amendment 1 to senate substitute amendment 1 was not germane.

The chair took the point of order under advisement.

Senate Bill 280

Relating to property exempt from execution.

Read a second time.

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 280

Read a third time.

By request of Senator Radosevich, with unanimous consent, the vote by which **Senate Bill 280** was ordered to a third reading was reconsidered.

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By request of Senator Radosevich, with unanimous consent, **Senate Bill 280** was placed at the foot of the calendar.

Senate Bill 367

Relating to making federal disability insurance benefit payments exempt from execution.

Read a second time.

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 367

Read a third time and passed.

Senate Bill 419

Relating to the term of appointment for the adjutant general.

Read a second time.

By request of Senator Swan, with unanimous consent, **Senate Bill 419** was returned to the author.

Senate Bill 476

Relating to reports to law enforcement officials concerning certain injuries and providing a penalty.

Read a second time.

The question was: Adoption of senate amendment 1?

Adopted.

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 476

Read a third time.

The ayes and noes were required and the vote was: ayes, 31; noes, 0; absent or not voting, 2; as follows:

Ayes -- Senators Adelman, Bablitch, Bear, Berger, Bidwell, Braun, Chilsen, Cullen, Flynn, Frank, Goyke, Hanaway, Harnisch, Johnston, Kleczka, Kreul, Krueger, Lasee, Lorge, McCallum, Murphy, Offner, Opitz, Radosevich, Risser, Roshell, Strohl, Swan, Theno, Thompson and Van Sistine -- 31.

Noes -- None.

Absent or not voting -- Senators Maurer and Moody -- 2.

So the bill passed.

Assembly Bill 178

Relating to filling civil service vacancies in 1st class cities.

Read a second time.

Ordered to a third reading.

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

Assembly Bill 178

Read a third time and concurred in.

Assembly Bill 560

Relating to remedial legislation affecting the statutes regulating various occupations (suggested as remedial legislation by the department of regulation and licensing).

Read a second time.

Ordered to a third reading.

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

Assembly Bill 560

Read a third time and concurred in.

Assembly Bill 813

Relating to revising miscellaneous statutes affecting state administrative procedures.

Read.

Senate amendment 2 offered by Senator Berger.

The question was: Adoption of senate amendment 2?

Senator Adelman moved rejection of senate amendment 2.

The question was: Rejection of senate amendment 2?

The motion did not prevail.

The question was: Adoption of senate amendment 2?

Adopted.

Senate amendment 3 offered by Senator Berger.

The question was: Adoption of senate amendment 3?

Senator Adelman raised the point of order that senate amendment 3 was not germane.

The Chair ruled that senate amendment 3 is identical to part of senate amendment 1 that the Chair ruled on earlier today and it is the opinion of the Chair that senate amendment 3 would accomplish a different purpose and would alter the nature of the original proposal and therefore the point of order raised by Senator Adelman is well taken.

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Senator Berger appealed the ruling of the Chair.

By request of Senator Bablitch, with unanimous consent, the senate recessed until 11:32 A.M.

11:10 A.M.

RECESS

11:32 A.M.

The senate reconvened.

The question was: Shall the decision of the Chair stand as the judgment of the senate?

The ayes and noes were required and the vote was: ayes, 26; noes, 6; absent or not voting, 1; as follows:

Ayes -- Senators Adelman, Bablitch, Bear, Bidwell, Braun, Cullen, Flynn, Frank, Goyke, Hanaway, Harnisch, Johnston, Kleczka, Lorge, McCallum, Moody, Offner, Opitz, Radosevich, Risser, Roshell, Strohl, Swan, Theno, Thompson and Van Sistine -- 26.

Noes -- Senators Berger, Chilsen, Kreul, Krueger, Lasee and Murphy -- 6.

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

So the decision of the Chair shall stand as the judgment of the senate.

Ordered to a third reading.

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

Assembly Bill 813

Read a third time and concurred in as amended.

Senate Bill 280

Relating to property exempt from execution.

Read a second time.

Senate amendment 1 offered by Senator Radosevich.

The question was: Adoption of senate amendment 1?

Adopted.

Ordered to a third reading.

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

Senate Bill 280

Read a third time and passed.

RULING OF THE CHAIR

Senate Bill 189

Relating to collective bargaining units consisting of supervisors and providing a penalty.

Earlier today Senator Harnisch raised the point of order that senate amendment 1 to senate substitute amendment 1 to **Senate Bill 189** was not germane. The Chair took the point of order under advisement.

Senate amendment 1 to senate substitute amendment 1 would expand the scope of the bill to the entire state. Senate Rule 50(7) states only amendments limiting the scope of a proposal are germane. Therefore it is the opinion of the Chair that the point of order raised by Senator Harnisch is well taken.

By request of Senator Kleczka, with unanimous consent, **Senate Bill 189** was referred to joint committee on Finance.

By request of Senator Bablitch, with unanimous consent, all action was ordered immediately messaged.

Senator Lorge moved reconsideration of the vote by which **Senate Joint Resolution 9** failed to be withdrawn from committee on Human Services and referred to committee on Senate Organization.

SENATE CLEARINGHOUSE RULES

Clearinghouse Rule 80-40

A rule to create Ch. NR 129, relating to flood plain and shoreland mapping assistance program.

Submitted by Department of Natural Resources.

Report received from Agency, February 19, 1980.

Referred to committee on Natural Resources and Tourism, February 21, 1980.

Clearinghouse Rule 79-52

A rule to amend LAD 2.03 and 2.06(2), (3) and (4), relating to plat review fee schedules.

Submitted by Department of Local Affairs and Development.

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Report received from Agency, February 20, 1980.

Referred to committee on Agriculture, Labor and Local Affairs.
February 21, 1980.

Clearinghouse Rule 79-71

A rule to create Chs. LIRC 1, 2, 3 and 4, relating to procedures for proceedings before the Labor and Industry Review Commission. Submitted by Labor and Industry Review Commission.

Report received from Agency, February 20, 1980.

Referred to committee on Agriculture, Labor and Local Affairs.
February 21, 1980.

AMENDMENTS OFFERED

Senate amendments 4 and 5 to senate substitute amendment 1 to **Senate Bill 189** by Senator Johnston.

Senate amendment 1 to **Assembly Bill 913** by Senator Opitz.

Upon motion of Senator Bablitch the senate adjourned until 10:00 A.M. Tuesday, February 26.

11:55 A.M.

CHIEF CLERK'S REPORT

The chief clerk records:

Senate Bill 87

Senate Bill 339

Senate Bill 508

Senate Bill 509

Senate Bill 235

Correctly enrolled and presented to the Governor on February 20, 1980.