

JOURNAL OF THE SENATE

Eighty-Fifth Regular Session

TUESDAY, January 20, 1981

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

INTRODUCTION OF BILLS

Read first time and referred:

Senate Bill 25

Relating to popular election of members of vocational, technical and adult education district boards.

By Senators Strohl, Berger, Hanaway and Cullen; cosponsored by Representatives Andrea, Shabaz, Neubauer, Wagner, Menos, Radtke and Ladwig.

To committee on Education and State Institutions.

Senate Bill 26

Relating to providing an income tax exemption for 60% of capital gains.

By Senators Opitz, Lorge, Theno, Lasee, McCallum, Engeleiter and Johnston; cosponsored by Representatives Ellis, Donoghue, Potter, Robinson, Behnke, Lewison, Panzer, Harer, Goodrich, Nelsen, Hopkins, Stitt, Shabaz, Helbach, Luckhardt, Duren, Robertson, Dorff, Ladwig, Swoboda, Menos and Matty.

Senate Bill 27

Relating to an income tax exemption for the first \$800 of interest.

By Senators Opitz, Lorge, Berger, Krueel, Theno, Lasee, Engeleiter and Johnston; cosponsored by Representatives Ellis, Potter, Robinson, Donoghue, Panzer, Goodrich, Klicka, Thompson, Harer, Hopkins, Stitt, Shabaz, Luckhardt, Laatsch, R. Travis, Dorff, Ladwig, Swoboda, Matty and McEwen.

To Joint Survey committee on Tax Exemptions.

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COMMITTEE REPORTS

REPORT OF JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS

Appendix to **Senate Bill 10**

Public Policy Involved

Sections 33 and 37--These sections of the bill limit and/or reduce specific appropriations and sum sufficient appropriations that are payable from general purpose revenues. The appropriation reductions in (13) and (33) of Section 33 are \$800 for the DETF relative to administrative costs, and \$4,700 relative to the appropriations for the Joint Survey Committee. Presumably, both of these amounts represent funds which would lapse anyway at the end of the fiscal year. Hence, there is no public policy issue involved.

On the other hand, the reduction and limitation on the sum sufficient in (13) of Section 37 would affect the supplemental annuities granted by Chapter 337, Laws of 1973, unless that amount is amended. The 1973 Act, which is now coded as ss. 41.23-(WRF), 42.49-(STRS), and 42.82-(MTRF) provide supplemental retirement benefits for those annuitants under the state-administered systems who were retired before January 1, 1973. The purpose of the supplements was to offset some of the effects of inflation.

The supplemental benefits are subject "to a continuation of the appropriations made by s. 20.515 (2)(a)." The existing sum sufficient for this program is \$8,738,000, and Section 37 would reduce that amount to \$8,438,000--a reduction of \$300,000. This amount is less than the required amount if the supplemental benefits are to be paid through the remaining months of the fiscal year. Representatives of the Dept. of Administration have indicated that it was not the intent to place the cap on this appropriation below the amount required. The amount needed to pay the supplemental benefits through the end of the fiscal year is \$8,671,000 and, therefore, it may be appropriate to recommend that Section 37 (13) be amended to provide this amount.

Section 5--This section of the bill expands the existing authority of the secretary of administration to transfer funds from various state accounts by newly including segregated funds. It is not entirely clear whether it is the intent and/or actual effect of this legislation to include the trust funds of the retirement systems under the DETF. However, the definition of segregated funds as found in Chapter 20 would appear to include the trust funds administered by the state--unless specifically excluded. Hence, this analysis will presume that

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this legislation would authorize the secretary of administration to transfer "surplus monies" from the trust funds of the retirement systems, with or without some payment of interest, but subject to any contractuality that may be involved.

By definitions found in Chapter 25 (State of Wisconsin Investment Board) and Chapter 40 (DETF) of the statutes, the assets of the retirement systems are trust funds. Accordingly, such funds are subject to the prudent-man rule established by Chapter 881 of the statutes, and the assets of such funds presently total \$5.3 billion. The fund assets may generally be described as being within three major accounts or reserves--the individual employee accumulation accounts, the aggregate employer accumulation account, and the reserves for annuities in force. Because of the size of the trust funds involved, the arguments in favor of including them as potential sources of monies in an emergency are obvious. On the other hand, the following points should be considered in opposition to such access:

- These trust funds essentially represent monies which have already been spent by state and local governmental employers and employees for fringe benefits. As such, they are not state monies subject to further spending any more than perhaps the savings accounts found in banking or savings and loan institutions.

- Prudent-man rule requires that trust funds be invested solely in behalf of the participants of the trust funds. If the secretary of administration or other persons authorize the use of the trust funds for other purposes, said individuals presumably would be subject to suit by the affected participants. Such suits have, in fact, been very common across the country.

- The general language in Section 5 states that monies would not be transferred if this would violate a contract. Generally speaking, the employer and employee contributions by state and local government are largely subject to collective bargaining agreements. In addition, monies in the individual employee accumulation accounts are normally viewed as vested. Lastly, monies in the reserves for annuities are also viewed as contractual -- belonging to the retirees to guarantee their vested benefits. Hence, there may be little sources of money in the retirement trust funds which are not subject to contract or vesting.

- The general authority alludes to "surplus monies" in segregated funds. By actuarial nomenclature there is no surplus funds in the employee and employer accumulation accounts. Indeed, there remains a \$600 million deficit relative to liabilities already accrued under the retirement plans. The only "surpluses" that may be found

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in the trust funds may relate to the so-called "surpluses" in the reserves for annuities which represent the earnings on investments over the rate assumed. These surpluses are now used to provide "dividend increases" in benefits for those already retired to help combat inflation.

- Although the general authority to borrow monies from segregated funds would permit the secretary of administration to award interest, such interest payment would be permissive and based upon the average daily rate of return for the state investment fund which may bear little relationship to the investment return possible from new investments in the retirement fund trusts. Hence, any borrowing of trust fund monies even if replaced with interest could negatively effect the investment return for the retirement funds. A reduction in return would directly affect the benefits payable to retirees and/or the employer normal costs for active employees.

- Perhaps most important is the precedent which might result from using retirement fund trusts assets. If the trust nature of the retirement system assets is breeched by legislation such as this, said action could lead to further "raids" on the retirement system assets for purposes other than those involving the participants of the retirement funds.

Considering the above points, the new references to segregated funds in Section 5 of this legislation should perhaps be amended by adding the words "except the trust funds established by Chs. 40, 41 and 42 of the statutes" after "fund" found on page 8, line 22 and page 9, line 5.

LYNN ADELMAN
Co-Chair

JOSEPH ANDREA
Co-Chair

Referred to joint committee on Finance.

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PETITIONS AND COMMUNICATIONS

**State of Wisconsin
Department of Administration**

December 31, 1980

**Honorable Lee Sherman Dreyfus, Governor
Honorable Members of the Legislature
State of Wisconsin
State Capitol
Madison, Wisconsin**

Gentlemen:

Enclosed for your information is a copy of the 911 Emergency Number Systems Recommendations for implementing ENS for the coming year 1981. It was submitted to me by staff members of the Department of Administration after consultation with the Department of Justice.

Additional copies are available upon request by calling James L. Greene at 266-2209.

Sincerely,
KENNETH E. LINDNER
Secretary

**State of Wisconsin
Vice President for General Services**

January 15, 1981

**Donald J. Schneider
Senate Chief Clerk
State Capitol
Madison, Wisconsin**

To the Honorable the Senate:

Chapter 333, Laws of 1973, amended section 20.923(5), Wis. Stats., to require that the Board of Regents of the University of Wisconsin System assign specified titled positions to University of Wisconsin System salary ranges in whatever manner the Board determined. The Board is required under the subsection to file a report annually with the Governor and the Legislature.

In June, 1978 the Board of Regents adopted Resolution #1678 which requires that all positions referenced in s. 20.923(5) be

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assigned to either a State Executive Salary Group 1-5 or to a UW System Administrative Salary Range.

The resolution established the following assignment criteria.

I. Positions subject to State Executive Salary Group assignment:

A. All positions referenced in s. 20.923(5) which carry the following titles regardless of annual salary:

Associate Vice Presidents

Assistant Vice Presidents

Associate Chancellors

Vice Chancellors not designated in ss. 20.923(4)(8)

Associate Vice Chancellors

Assistant Vice Chancellors

Assistant Chancellors

All positions carrying the titles of Assistant to the Chancellor or directors or associate directors with over 50 percent of their activities coded as physical plant, general operations and services, and auxiliary enterprises whose fiscal year annual salary rate exceeds the maximum of pay range 1-17 (FY 1980-81 maximum is \$35,893) of the general non-represented pay schedule #1.

II. Positions subject of UWS Administrative Salary Range Assignment.

All Assistants to the Chancellor and directors or associate directors with over 50 percent of their position assigned to an enumerated activity code in the statute whose annual salary does not exceed the maximum of pay range 1-17.

Part A of the attached report designates those positions assigned to State Executive Salary Groups 1-5 and Part B provides the minimum and maximum for those positions assigned to a UWS Administrative Salary Range. The report is dated January 1, 1981 and serves to fulfill this calendar year's reporting requirements.

Sincerely yours

ROBERT W. WINTER, JR.

Vice President for General Services

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CHIEF CLERK'S CORRECTION

Suggested by Legislative Reference Bureau

Senate Joint Resolution 1

In "enrolling" the joint resolution for printing of a new pamphlet edition of the joint rules, the following corrections were made:

1. On page 1, line 1, after "73(4)" insert "and (5)".
2. On page 4, line 14, replace "73(4) is" with "73(4) and (5) are", and replace "73(5)" with "73(5) and (6), respectively".