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# The State of Wisconsin

LEGISLATIVE REFERENCE BUREAU  
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Madison, Wisconsin 53702

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Reference: 266-0341  
Bill Drafting: 266-3561

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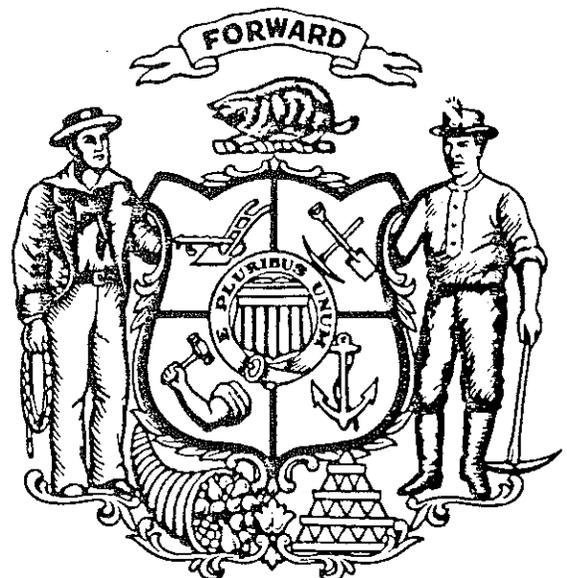
## Legislation "SHOW and TELL" :

The Enactment Of

1977 Assembly Bill 351

Research Bulletin 78-RB-3

DECEMBER 1978



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**WISCONSIN LEGISLATURE**  
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ASSEMBLY SPEAKER

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*Court Reorganization*

FOREWORD

I hope you find this case study of the enactment of 1977 Assembly Bill 351 helpful.

In recent years, the problems facing state government have grown more complex, and have come to touch the lives of more and more people. As a result, citizen involvement has become more important. The legislative process is itself complicated, but designed to ensure that ideas are carefully considered before they can become law. In this case study, Dr. H. Rupert Theobald, Chief of the Legislative Reference Bureau, traces the history of a bill from its beginning as an idea through its publication as a state law.

This volume was written to help new legislators and citizens interested in the legislative process better understand the ways that ideas are made into laws. It is part of a series of publications prepared by the Legislative Reference Bureau and the Legislative Council. If you would like more information about the legislative process, please don't hesitate to contact either agency. Both are ready to help you if they can.

  
ED JACKAMONIS  
Speaker

# Legislation "SHOW AND TELL" :

## The Enactment Of

### 1 9 7 7 A s s e m b l y B i l l 3 5 1

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GENERAL EXPLANATION. This section will show examples of the various types of documents used by the Wisconsin Legislature. Based on the enactment into law of 1977 Assembly Bill 351 -- which became Chapter 81, Laws of 1977 -- this section will tell, by example, how an idea for legislation first becomes a drafting request filed with the Legislative Reference Bureau, how it is then placed before the Legislature, how it is reviewed in committee and debated and perfected on the floor of each house, reviewed by the Governor and signed into law.

1977 Assembly Bill 351 is a handy example. It had multiple, bipartisan sponsorship in both houses. It had a fiscal estimate. It was "dipped" through the Joint Committee on Finance. It was amended. It had public hearings in both houses. Consequently, following that bill through the legislative process provides examples of many of the documents and actions encountered in each of these aspects.

No bill can be a complete example of every possible legislative treatment. For a joint resolution or resolution, the legislative steps leading to enactment are somewhat different, and in some respects simpler. 1977 Assembly Bill 351 did not pick up a substitute amendment, nor an amendment to an amendment. As introduced, 1977 Assembly Bill 351 dealt with neither retirement, tax exemption nor bonded debt. Consequently, it did not pick up any of the special reports developed by joint survey committees on these subjects. It did not encounter much opposition; thus, there was no motion to indefinitely postpone, and no motion to reconsider.

BILL HISTORY:

As soon as possible following the last session of the Legislature in each week, beginning with the 3rd full week of session at the end of January in the odd-numbered year and extending throughout the entire biennium, the Wisconsin Legislature publishes its weekly BULLETIN OF PROCEEDINGS.

Each new bulletin edition becomes available early on Tuesday morning. It consists of 3 parts: Senate (yellow cover), Assembly (blue cover) and Index (green cover). The Senate part contains the up-to-date history, through the Saturday of the preceding week, of every document initially introduced in the Senate: bills, joint resolutions, resolutions, petitions and gubernatorial nominations for appointment. The Assembly does not act on these appointments; its part contains the up-to-date history of: Assembly bills, joint resolutions and resolutions. In referring to the history of any legislation, the term "bill history" is commonly used, even though the individual document may be a bill, a joint resolution, or a resolution.

The bill history for 1977 Assembly Bill 351, as published in the bulletin edition dated July 8, 1978, looked as follows:

**Assembly Bill 351**

AN ACT to amend 139.03 (2m) (intro.); and to create 139.03 (2t) of the statutes, relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities.

2-15. A. Introduced by Representatives Day, Jackamonis, Hasenohrl, Lallensack, Potter, Byers, Vanderperren, Litscher, Groshek, Mohn, Donoghue, Schricker, Swoboda, Luckhardt, McClain, Conradt, Bradley, Porter, Wahner and Schmidt, co-sponsored by Senators Morrison, Radosevich, Maurer, Berger, Cullen, Bablitch, Chilsen, Harnisch, Frank and Krueger.....	274
2-15. A. Read first time and referred to committee on Agriculture.....	274
3- 1. A. Fiscal note received.....	
3-16. A. Assembly amendment 1 offered by Representative Hephner.....	381
3-16. A. Public hearing held.....	
3-16. A. Executive session held.....	
3-29. A. Report assembly amendment 1 adoption, Ayes 12, Noes 0, passage recommended by committee on Agriculture, Ayes 12, Noes 0.....	415
3-29. A. Referred to committee on Rules.....	415
4- 6. A. Placed on calendar 4-13 by committee on Rules.....	
4-13. A. Read a second time.....	614
4-13. A. Assembly amendment 1 adopted.....	614
4-13. A. Referred to joint committee on Finance.....	615
4-13. A. Rules suspended.....	615
4-13. A. Withdrawn from joint committee on Finance.....	615
4-13. A. Refused to refer to committee on Excise and Fees, Ayes 8, Noes 90.....	615
4-13. A. Ordered to a third reading.....	615
4-13. A. Rules suspended.....	616
4-13. A. Read a third time and passed, Ayes 95, Noes 3.....	616
4-13. A. Ordered immediately messaged.....	616
4-14. S. Received from Assembly.....	392
4-14. S. Read first time and referred to committee on Governmental and Veterans' Affairs.....	395
4-14. S. Withdrawn from committee on Governmental and Veterans' Affairs and referred to committee on Agriculture, Aging and Labor.....	395
5-31. S. Public hearing held.....	
6- 2. S. Report concurrence recommended, Ayes 7, Noes 0.....	695
6- 7. S. Fiscal estimate received.....	
6- 7. S. Read a second time.....	712
6- 7. S. Ordered to a third reading.....	712
6- 7. S. Rules suspended.....	712
6- 7. S. Read a third time and concurred in, Ayes 26, Noes 5.....	712
6- 7. S. Ordered immediately messaged.....	712
6- 8. A. Received from senate concurred in.....	1378
6-13. A. Report correctly enrolled.....	1392
8-17. A. Report approved by Governor 8-16-77.....	1830
Chapter No. 81. Published 8-19-77.....	

The adoption of any amendment is shown in bold face letters to make it easier to recognize what parts are enacted.

DRAFTING REQUEST:

Before any proposal can be offered for introduction in the Legislature, it must be "put in proper form" by the Legislative Reference Bureau (Joint Rule 51). This is not just a retyping task. "Proper form" means that the LRB has done whatever research was appropriate to give shape to the idea presented by the requesting legislator, and to present the requester's idea so that neither Wisconsin nor U.S. constitutional requirements are violated. Attorneys assigned to bill drafting specialize by subject area -- e.g. education, transportation, family law -- and see to it that the idea in bill form fully implements the change intended by the requesting legislator, without interfering with the rest of this state's established legal structure.

DRAFTING REQUEST

Extra RL 1  
Copies Bernstein 2 LRB 0056

Date rec'd 8/3/76 Received by RL Wanted \_\_\_\_\_ Drafter RL

S A Bill Jt. Res. Res. Sub.Amdt. Amdt.

SUBJECT Alcohol, from, whey & effluents

FOR DAV BY/Representing Steve Branton (AA)  
Acc. Bernstein

INDEX Sewerage This file MAY BE SHOWN to any legislator \_\_\_\_\_  
(Signature)

MAY CONTACT \_\_\_\_\_

INSTRUCTIONS: See attached instructions

PHONE 462-3700

E. ACE BERNSTEIN  
ATTORNEY AT LAW

6101 N. TEUOHIA AVE.  
MILWAUKEE, WISCONSIN 53209

NOTE: The layout and content of the request form was changed for the 1979 Session. For the purpose of this illustration, information found on the actual request sheet prepared for 1977 AB-351 (LRB-0056) was transferred to a 1979 drafting request form.

Work/O	Prelim/P		1st	2nd	3rd	4th	5th	6th
_____	_____	Drafter	<u>RL</u>	<u>RL</u>	<u>RL</u>	_____	_____	_____
_____	_____	Reviewed	_____	<u>KG</u>	<u>KG</u>	_____	_____	_____
_____	_____	Typist	_____	<u>dh</u>	<u>dh</u>	_____	_____	_____
_____	_____	Proofed	_____	<u>mb/dh</u>	<u>dh</u>	_____	_____	_____
Original to drafter	All copies to drafter	Submitted	<u>10-19</u>	<u>1-12</u>	<u>1-13</u>	_____	_____	_____
		FE DEBT	_____	<u>FE</u> DEBT	<u>FE</u> DEBT	FE DEBT	FE DEBT	FE DEBT
		RET <u>(TAX)</u>	_____	RET TAX	RET TAX	RET TAX	RET TAX	RET TAX
FE sent for	<u>2-15</u>	FE submitted	_____	_____	_____	_____	_____	_____
Requested ORIGINAL draft:	Received JACKET:							
_____ (Signature)	<u>Stephen F. Branton</u> <u>for L.J. Dreyer</u>							

Because the proposal, in its initial form, sought to provide a tax exemption for manufacturing alcohol from whey and other effluents, the "TAX" field was circled for the first draft. This alerts the records clerks that the proposal, when introduced, requires referral to the Joint Survey Committee on Tax Exemptions for a complete analysis.

INSTRUCTIONS RECEIVED BY THE LRB:

The drafting request for 1977 Assembly Bill 351 was brought to the LRB on behalf of Rep. Laurence J. Day by his administrative assistant, Steve Brenton. To supply the detailed information, Mr. Brenton brought along Ace Bernstein, an attorney from Milwaukee.

On August 3, 1976, the following instructions were recorded by Ron Leonhardt (RL), the LRB attorney assigned to bill drafting in the subject areas of "budget generally", "occupational regulation", "revenue" and "taxation".

*Aug 3, 1976 - Meeting w/ Steve Brenton (Rep Day's office)*  
*Ace Bernstein } Milwaukee*  
*Marcy Bernstein }*  
*Use of whey to produce alcohol for consumption.*  
*Seek tax exemption for manufacturing alcohol from whey & other effluents*  
*2 new exemptions in 139.04*  
*1) from "agricultural products"*  
*2) from "pollution control facilities"*

LRB was also given a typewritten preliminary draft.

This bill sets a separate tax rate on intoxicating liquor manufactured or distilled in Wisconsin when it is manufactured or distilled from Wisconsin farm products. The bill also exempts from the liquor tax alcohol distilled by pollution control facilities.

The people of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 139.01(11) and (12) of the statutes are created to read:

139.01(11) "Farm products" includes all products or byproducts of agriculture, horticulture, <sup>by product of brewing,</sup> dairying, live stock, poultry and bee raising.

139.01(12) "Pollution control facilities" has the same meaning as in s. 66.521(2)(h). <sup>and shall include by products of the brewing industry</sup>

SECTION 2. 139.03(2m) of the statutes is amended to read:

139.03(2m) The rate of such tax, effective November 5, 1971, and thereafter, is \$2.60 per wine gallon on intoxicating

(Remainder of preliminary draft omitted.)

The bill drafter, LRB attorney "RL", prepared the following "first draft" reconciling the requester's instructions with the existing statute law of Wisconsin. Every page of every proposal shows the LRB number (LRB-0056), the version (/1 = first draft), and the initials of the drafter.

1977

STATE OF WISCONSIN

LRB-0056/1  
RL:ke

*Wants \$1. tax on such liquor*

After reviewing the first draft, the requester decided that liquor produced from agricultural byproducts, and alcohol distilled by pollution control facilities, should be taxed at a lesser rate (\$1 per gallon) rather than exempt from taxation.

1 AN ACT to create 139.04 (10) and (11) of the statutes, relating to  
2 liquor tax exemption for intoxicating liquor produced from  
3 agricultural byproducts and alcohol distilled by pollution  
4 control facilities.

Analysis by the Legislative Reference Bureau

This proposal will be referred to the joint survey committee on tax exemptions for a detailed analysis which will be printed as an appendix to the proposal.

NOTE: For the 1979 Session, even proposals sent to one of the joint survey committees will be given a brief descriptive analysis by the LRB.

5  
6 The people of the state of Wisconsin, represented in senate and  
7 assembly, do enact as follows:

8 SECTION 1. 139.04 (10) and (11) of the statutes are created  
9 to read:

10 139.04 (10) Intoxicating liquor manufactured or distilled in  
11 this state from products or byproducts of agriculture, brewing,  
12 dairying, horticulture, livestock, poultry or bee raising which are  
13 produced in this state.

14 (11) The manufacture, distillation or sale of alcohol dis-  
15 tilled by pollution control facilities as defined in s. 66.521 (2)  
16 (h).

ANALYSIS

(End)

*Under current law there is a tax of \$2.60 per wine gallon on intoxicating liquor, except wine, containing 0.5% or more of alcohol by volume.*

*This bill reduces to \$1.00 per wine gallon the tax on intoxicating liquor, ~~and~~ containing 0.5% or more of alcohol by volume which is manufactured or distilled in this state by pollution control facilities or from agricultural byproducts produced in this state.*

Because the 2nd draft was no longer a tax exemption bill, the drafter wrote a descriptive analysis of the proposal.

FN

For the 3rd draft, the requester limited the application of the proposal from all "agricultural byproducts" to "whisky and brewing wastes":

1977 LUD-0056/2 RL:dn

-2-

1 accordance with the following table: [See Figure 139.03 (2m)]  
 2 following]

3 SECTION 2. 139.03 (2t) of the statutes is created to read:  
 4 139.03 (2t) The rate of tax, effective on the effective date  
 5 of this act (1977) and thereafter, is \$1 per wine gallon on intoxi-  
 6 cating liquor, containing 0.5% or more of alcohol by volume, manu-  
 7 factured or distilled in this state by pollution control facilities  
 8 as defined in s. 66.521 (2) (h) or from ~~products of~~  
 9 ~~agriculture, raising, horticulture, livestock, poultry, or~~  
 10 ~~winery and brewing wastes~~  
 11 ~~producing~~ which are produced in this state. The tax shall be com-  
 12 puted in accordance with the following table: [See Figure 139.03  
 13 (2t) following]

Quantity in Wine Gallons	Quantity in Ounces	Tax
Up to and including 2	Up to and including 2	\$ .015625
1/64 of a gallon		
More than 1/64 of a gallon to	More than 2 to and	.03125
and including 1/32 of a gallon	including 4	
More than 1/32 gallon to and	More than 4 to and	.0625
including 1/16 of a gallon	including 8	
More than 1/16 gallon and	More than 8 to and	.10
including 1/10 gallon	including 12.8	
More than 1/10 gallon to and	More than 12.8 to and	.125
including 1 pint	including 16	
More than 1 pint to and	More than 16 to and	.20
including 1/5 gallon	including 25.6	

(Remainder of 2nd draft omitted)

1977

3

LUD-0056/2 RL:dn

STATE OF WISCONSIN

1977

1 AN ACT to amend 139.03 (2m) (intro.); and to create 139.03 (2t) of  
 2 the statutes, relating to tax on liquor produced from ~~agriculture,~~  
 3 ~~winery and brewing wastes~~  
 4 ~~agricultural byproducts,~~ or by pollution control facilities.

Analysis by the Legislative Reference Bureau

Under current law there is a tax of \$2.60 per wine gallon on intoxicating liquor, except wine, containing 0.5% or more of alcohol by volume.

This bill reduces to \$1 per wine gallon the tax on intoxicating liquor, containing 0.5% or more of alcohol by volume which is manufactured or distilled in this state by pollution control facilities or from ~~agricultural byproducts,~~ produced in this state.

For further information, see the fiscal note which will be printed as an appendix to the proposal.

*whisky and brewing wastes*

4 The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 139.03 (2m) (intro.) of the statutes is amended to read:

6 139.03 (2m) (intro.) The rate of such tax, effective November 5, 1971, and thereafter, is \$2.60 per wine gallon on intoxicating liquor, except wine and intoxicating liquor ~~produced~~ under sub. (2t), containing 0.5% or more of alcohol by volume, and is computed in

Whenever LRB has prepared a draft, a copy is submitted to the requester. 1977 Assembly Bill 351, under its drafting number LRB-0056, was so submitted on 3 separate occasions: 10/19/76, 1/12/77, and 1/13/77.

Each time LRB submits a draft, it attaches this form. The form is printed on light blue paper. Items 1 (redraft) and 2 (jacket) are alternatives. Item 3 (fiscal estimate) could be activated in either case. Some requesters are anxious to obtain fiscal information before introduction to make final adjustments in the proposal. Other legislators prefer to wait until after introduction so as not to risk the premature release of any information concerning their proposals.

LEGISLATIVE REFERENCE BUREAU  
201 North, State Capitol, Madison, Wisconsin 53702  
266-3561

Relating to LRB drafting number \_\_\_\_\_

The attached draft is submitted for your inspection. Please check each part carefully, PROOFREAD each word, and sign on the appropriate line below.

1. REDRAFT; see changes indicated or attached \_\_\_\_\_  
A revised draft will be submitted for your approval with changes incorporated.
2. JACKET the draft for introduction \_\_\_\_\_  
ONLY THE LEGISLATOR who authorized preparation of the draft can direct that the draft be jacketed. Please allow one day for the preparation of the required copies.
3. Obtain FISCAL ESTIMATE NOW, prior to introduction \_\_\_\_\_  
If the analysis indicates that a FISCAL ESTIMATE is required because the proposal increases or decreases state or local revenues or expenditures, you have the option to request the fiscal estimate now, prior to introduction, or to introduce the proposal without the estimate. In that case, the estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. To retain flexibility for possible redrafting of the proposal, it is best to request the fiscal estimate prior to introduction.

DF79-3

**SUBMITTAL:** Several legislative sessions ago, LRB submitted ready drafts to the requesters by mailing them to their offices. Unfortunately, this created problems. Somehow, persons not intended to see a draft managed to read it while the requester's office was unattended. Today, all drafts have to be picked up in Room 211 North in the Capitol. That room is the first door inside the suite of office assigned to the LRB, immediately to the left of the Hearing Room in the North wing of the Capitol, on the same floor with the Senate and Assembly Chambers.

Drafts are released only to persons whose names are shown on the drafting request sheet: the requesting legislator, the employes assigned to that legislator, or persons who assist the legislator in developing the idea.

When the requester decides that his (or her) proposal is ready for introduction, the blue submittal form, personally signed by the requester in the signature field under Item 2, is returned to the LRB for preparation of the bill jacket.

Once a draft has been made ready for introduction, LRB will release the jacket only to the legislator or to his or her employes.



1977 ASSEMBLY BILL 351 IS INTRODUCED:

Shown below is a reproduction from the actual jacket of 1977 Assembly Bill 351, as offered for introduction in the Assembly on February 15, 1977. The bill was referred to the Assembly Committee on Agriculture for a public hearing.

**1977 ASSEMBLY BILL 351**

LRB 56

1977 A. BILL 351

AN ACT to amend 139.03 (2m) (Intro.); and to create 139.03 (2t) of the statutes, relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities.

2/15/77

<p>Introduced by Representative</p> <p>PRINCIPAL AUTHOR <i>Day JACK AMONG</i></p> <p><i>Larsen, Lallenbach, Potter, Munn, Radonovich</i></p> <p><i>Anderson, Peterson, Groshok, Muth, Mauer, Berg, Cullen</i></p> <p><i>Danowski, Service, SWISS, Leubsdorf</i></p> <p>(BY REQUEST OF)</p>	<p>Cosponsored by Senator</p> <p><i>...</i></p>
<p>(CONTINUE HERE FOR ADDITIONAL AUTHORS)</p> <p><i>Ang, Elsin, Gippert, Bradley, Posters, Wagner, Schmitt</i></p>	<p>(CONTINUE HERE FOR ADDITIONAL COSPONSORS)</p> <p><i>Foght, Gritzner, Hamme, Egan, Sawyer</i></p>

In addition to Rep. Day, who had requested the drafting of the bill, 1977 Assembly Bill 351 had 19 "coauthors" (members of the house of origin), and 10 cosponsors (members of the 2nd house; in this case, the Senate). Multiple sponsorship of bills and joint resolutions is encouraged by Joint Rule 53 of the Wisconsin Legislature:

- Joint Rule 53. AUTHORS AND COSPONSORS. (1) Any bill, joint resolution or motion under joint rule 7 may have, following and separate from the names of the authors of the measure, the names of one or more cosponsors from the other house.
- (2) When a bill is introduced by request, the name of the person requesting such introduction shall be made a part of the record of the bill.

The sponsorship of 1977 Assembly Bill 351 illustrates a number of interesting aspects of the Wisconsin legislative process:

1. In spite of the frequently strong division of each house by political party, many state issues transcend party lines. Encouraging the state's economic development by providing a tax advantage to a new industry -- in this case, distillation of alcohol from waste products previously without recovery value -- appears to have been such an issue. Of the 20 Assembly authors, 12 were members of the Democratic Caucus and 8 were members of the Republican Caucus; among the 10 Senate sponsors, there were 8 Democrats and 2 Republicans.
2. Proposals dealing with economic issues are sometimes identified as introduced "at the request of" a specific special interest group, person or industry. In this case, the sponsoring legislators deemed the issue of such

statewide interest that they offered the proposal without the benefit of any reference a Wisconsin interest group or industry.

3. The legislator initially requesting the draft frequently seeks the endorsement of the legislative leadership in introducing the proposal. For 1977 Assembly Bill 351, the Assembly coauthors included the Speaker of the Assembly, Rep. Jackamonis, and the Assembly Majority Leader, Rep. Wahner, as well as the chairperson (Rep. Mohn) and 4 members of the Assembly Committee on Agriculture to which the bill would be referred for review, public hearing and report to the Assembly. Among the Senate cosponsors were the Senate Majority Leader, Sen. Bablitch, the Senate Minority Leader, Sen. Krueger, as well as the chair (Sen. Cullen), vice chair (Sen. Radosevitch) and 3 members of the Senate Committee on Agriculture, Aging and Labor.

JOURNAL OF THE ASSEMBLY [February 15, 1977]

In the Assembly Journal for February 15, 1977, the introduction of AB-351 was recorded on page 274. For each house, a journal is published on every day on which that house meets.

Although there may be single days on which one house meets and the other does not, one house cannot, without approval by a joint resolution by both houses, adjourn for more than 3 days while the other house remains in session. This constitutional restriction does not apply to the 4-day weekend recess because Sundays are not counted (Joint Rule 13).

The page numbers increment straight through the biennial session period. Thus, the journal for the biennium covers all meeting days in both regular or special session. In addition, each journal also contains pages identified as "Chief Clerk's entries" to record business received on days when the house is not in session.

#### AMENDMENTS OFFERED

Assembly amendment 1 to Assembly Joint Resolution 23 offered by Representative Shabaz.

Assembly amendment 2 to Assembly Joint Resolution 23 offered by Representative Shabaz.

Assembly amendment 3 to Assembly Joint Resolution 23 offered by Representative Shabaz.

Assembly amendment 4 to Assembly Joint Resolution 23 offered by Representative Shabaz.

Assembly amendment 1 to Assembly Bill 197 offered by Representative DeLong.

#### INTRODUCTION AND REFERENCE OF BILLS

Read first time and referred:

##### Assembly Bill 350

Relating to miscellaneous changes in the authority of the educational approval board, granting rule-making authority and providing a penalty.

By Representatives Ferrall, Munts and Flintrop, co-sponsored by Senators Peloquin, Flynn and Frank, by request of The Educational Approval Board.

To committee on Education.

##### Assembly Bill 351

Relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities.

By Representatives Day, Jackamonis, Hasenohrl, Lallensack, Potter, Byers, Vanderperren, Litscher, Groshek, Mohn, Donoghue, Schricker, Swoboda, Luckhardt, McClain, Conradt, Bradley, Porter, Wahner and Schmidt, co-sponsored by Senators Morrison, Radosevich, Maurer, Berger, Cullen, Bablitch, Chilsen, Harnisch, Frank and Krueger.

To committee on Agriculture.

##### Assembly Bill 352

Relating to establishing energy efficiency standards for air conditioners, permitting the department of agriculture to revise the standards after review, prohibiting the sale of air conditioners not

BACKGROUND INFORMATION ON WISCONSIN LEGISLATION:

The "Congressional Record" published by the U.S. Congress contains the full text -- and, resulting from the privilege of "extension of remarks", sometimes more than that -- of every speech made in the 2 houses of Congress. In Wisconsin, the daily "Journal" of the Legislature usually only records events, actions and roll calls. For material which may be published in the journals, see Joint Rule 73 ("Daily Journals") and, for the material actually published in the Senate and Assembly Journals of the 1977 Session, see the "Subject Index to Legislative Journals" in the INDEX volume of the Bulletin of Proceedings.

# Whey Conversion Bill Going to Legislature

By GENE DIVINE

Sentinel Staff Writer

Madison, Wis. — A bill that sponsors say could result in production of 1.2 million gallons of high proof alcohol annually from whey, a byproduct of cheese-making, will be introduced Friday in the State Legislature.

The author, Rep. Laurence J. Day (D-Eland), said the bill is co-sponsored by 20 representatives and 10 senators and "establishes a \$1 per wine gallon tax on 192 proof alcohol." That is a \$1.60 a gallon less than the current tax.

The reduction would make economically feasible the conversion of whey into alcohol. Milbrew, Inc., is operating a pilot plant in Juneau. Biochemist Sheldon Bernstein, president of Milbrew, has been working on the project for 10 years.

The end product would have commercial and industrial uses for items such as vinegar. Milwaukee Atty. E. Ace Bernstein, a member of the Milbrew Board of Directors, said that eventually the whey product may be blended with alcoholic beverages.

(Theoretically, it could be used to make vodka.)

Sheldon Bernstein has already probed the possibility of helping to alleviate the energy crisis by using the alcohol as a fuel additive.

Ace Bernstein said that if the bill is passed by the Legislature, production could begin within six weeks to two months using 750 million pounds of whey annually. Within two years, 100 persons would be employed in the production of the alcohol, he estimated.

## Longtime Disposal Woe

Whey is the liquid left when cheese coagulates, and includes protein, sugars and minerals. Its disposal has been a major problem since the tightening of antipollution laws.

The state produces 13.5 billion pounds of whey annually, using only about 500 million pounds in animal feeds and other products. Many cheese factories spread the whey on land through irrigation systems — a difficult process in cold weather and one which often results in runoff into streams.

Day, who is on the Assembly Agriculture Committee and has been chairman of the Assembly Natural Resources Committee since 1969, said the proposed new use of whey could mean "more revenue for the state, more jobs and elimination of a major pollution source."

## Similar Laws in South

His bill is patterned after similar laws in Georgia and Florida giving tax breaks to manufacturers of alcohol from citrus fruit residues.

"The beauty of it is that there is no remaining waste after yeast and alcohol are produced from the whey. It is a closed circuit system," Day said.

Ace Bernstein said that there are several billion pounds of whey available in the Juneau area.

"This has to run successfully from an economic standpoint before we can expand to a projected 5 billion pound plant. We believe a market for the alcohol is available," he said.

Milbrew began in 1920 as Sunshine Dairy, owned by the Bernstein family. The dairy portion was sold to Borden's, Inc., in 1942. The plant uses brewery wastes to manufacture pharmaceuticals and animal feed.

The whey project began with a \$190,000 grant from the Environmental Protection Agency to Sheldon Bernstein to find a way to dispose of whey.

"The first thought was to make yeast, but gradually this alcohol concept developed," Ace Bernstein said.

Milbrew is the only licensed distillery in the state.

In many cases, however, substantial background information is made available to the public by the representatives of the news media, and published in the daily press. Such was the case with 1977 Assembly Bill 351. The MILWAUKEE SENTINEL of February 11, the MILWAUKEE JOURNAL of February 12, and the SHEBOYGAN PRESS of February 14 all carried stories explaining the importance of AB-351.

The most detailed story was in the SENTINEL: "Whey Conversion Bill Going to Legislature".

The MILWAUKEE JOURNAL punned its headline: "He Weighs a Way to Use Whey". The SHEBOYGAN PRESS story ("Dual Benefits") appeared on the editorial page, commenting that the bill held the promise of both "ecological and energy" dividends.

FINDING A BILL IN THE INDEX VOLUME:

In the INDEX volume of the 3-part BULLETIN OF PROCEEDINGS, each proposal is shown under one or more headings in the "subject index to bills, joint resolutions and resolutions". In the author indexes -- the author index to legislation introduced by senators precedes the author index to legislation introduced by representatives -- each proposal is shown by its descriptive abstract only under the names of the first and 2nd authors, and of the first cosponsor from the other house. For all other coauthors and cosponsors, the author indexes merely make a numeric reference, following the listing of the legislator's main proposals, under "other proposals coauthored or cosponsored by ....". The author indexes also contain chapters on proposals "offered by entire membership of one house" and proposals "offered by legislative committees".

Liquor -- Taxation

- Beer and liquor licensing and taxation revised; rental of equipment; licensing requirement of coin-operated machine distributors removed..... AB-715
Contraband liquor provisions (Sec. 621n; revised, A.Amdt.17 to S.Amdt.1).. A.Sub.Amdt.1 to AB-1220
Fuel, cigarette and liquor tax made confidential; fuel nonfiler report requirements revised; cigarette tax enforcement; oleomargarine regulation transferred; penalty provided [Department of health and social services to assist in oleomargarine enforcement, A.Amdt.3]..... AB-714
Liquor and beer confiscation responsibilities transferred to Department of revenue (Sec. 1137, 1263)..... SB-77
Liquor containers in metric sizes: tax table created..... AB-86
Liquor produced from whey or brewing wastes: limit on conditions for tax reduction established..... SB-697
Liquor produced from whey or brewing wastes or by pollution control facilities: tax reduced..... AB-351

In the subject index, 1977 AB-351 was entered under the heading: "Liquor -- Taxation".

In the author indexes, 1977 AB-351 was shown by descriptive abstract under the headings for Rep. Day, Speaker Jackamonis and Sen. Morrison.

Day, Rep. Laurence J. (86th A.Dist.; Dem.)

- Administrative rules: fiscal note required..... AP 511
Assessment of office of high assessment required.....

Jackamonis, Rep. Edward G. (98th A.Dist.; Dem.)

- 1977 November special session sine die..... 77 Nov.Spec.Sess. AJR-3
International women's Wisconsin state assembly and the entire state..... AR-8
Joint rules of 1977 legislature..... SR-198
Legislative adjournment for more than 3 days: Sunday excluded.....
Legislative in-session per diem for food and lodging revised.....
Liquor produced from whey or brewing wastes or by pollution control facilities: tax reduced..... AB-351

Morrison, Sen. Kathryn (17th Sen.Dist.; Dem.)

- Accountants educational qualifications and Accounting examining board duties revised.. AP 543
Agriculture: bonded bank loans: restricted expense..... S 9

In the author entry for Rep. Byers (he was the 6th Assembly author), a numeric reference to AB-351 was shown under:

"Other proposals coauthored or cosponsored by Rep. Byers:"

Byers, Rep. Francis R. (40th A.Dist.; Rep.)

- Athletic trainers: licensing by Medical examining board; council created; penalty provided..... SB-712
Gifted and talented pupils: program and council established..... SB-413
National guard: legal fees for defense re acts committed on duty..... AB-572
National guard members: educational benefits through tuition grants provided..... AB-573
Regulatory agencies: periodic review by legislature; audit required; procedure for termination established..... AB-105
Wisconsin home for veterans: funeral and burial allowances revised..... AB-507

Other proposals coauthored or cosponsored by Rep. Byers:

Assembly Bills: 51, 54, 102, 107, 142, 186, 200, 209, 211, 212, 214, 222, 236, 237, 240, 251, 269, 272, 273, 287, 291, 295, 311, 321, 339, 349, 351, 352, 353, 385, 393, 402, 420, 421, 435, 493, 513, 515, 529, 537, 543, 553, 555, 556, 561, 571, 574, 575, 592, 593, 624, 693, 694, 698, 712, 714, 720, 745, 753, 754, 768, 774, 776, 794, 797, 802, 804, 815, 816, 832, 833, 860, 864, 866, 882, 904, 929, 998, 1004, 1017, 1029, 1030, 1051, 1095, 1097, 1137, 1142, 1164, 1175, 1187, 1196, 1207, 1219, 1224, 1230, 1241

Assembly Joint Resolutions: 10, 18, 47, 49, 61, 75, 96, 100

Assembly Resolutions: 12, 25, 30

Assembly Petitions: 216

Senate Bills: 59, 103, 119, 184, 186, 188, 282, 283, 284, 301, 373, 406, 548, 551, 552, 555, 556, 581, 594

Senate Joint Resolutions: 3, 58

SENDING LEGISLATION TO THE CONTRACT PRINTER:

As soon as any legislation is introduced in either house, staff of the Chief Clerk of that house fills in a cover sheet to notify the LRB of the date of introduction, the sponsors and, in the case of an original proposal, of the committee to which the proposal has been referred. The Legislative Reference Bureau, which prepared and retained the camera-ready copy of the legislation, now enters this introductory information on the camera-ready copy and sends the document to the contract printer for legislation.

ASSEMBLY BILL **351**

2/15/77 Introduced by Representative <sup>Jackman's</sup> Day, Hasenohrl,

Representatives Lallensack, Potter, Byers, Vanderperren,

Litscher, Groshek, Mohn, 1977

Swoboda, Luckhardt, McClain

Bradley, Porter, Wahner & Sc.

Cosponsored by Senators Morrison, Radosevich

Burger, Cullen, Bablitch, Chilsen

Committee on \_\_\_\_\_

By request of \_\_\_\_\_

STATE OF WISCONSIN

LRB-0056/3  
RL:dh

1977 ASSEMBLY BILL 351

February 15, 1977 -- Introduced by Representatives DAY, JACKMANIS, HASENOHRL, LALLENSACK, POTTER, BYERS, VANDERPERREN, LITSCHER, GROSHK, MOHN, DONOGHUE, SCHRICKER, SWOBODA, LUCKHARDT, MCCLAIN, CONRADT, BRADLEY, PORTER, WAHNER and SCHMIDT; cosponsored by Senators MORRISON, RADOSEVICH, MAURER, BERGER, CULLEN, BABLITCH, CHILSEN, FRANK and KRUEGER. Referred to Committee on Agriculture.

- 1 AN ACT to amend 139.03 (2m) (intro.); and to create 139.03 (2t) of
- 2 the statutes, relating to tax on liquor produced from whey and
- 3 brewing wastes or by pollution control facilities.

Referred to Committee on Agriculture

Analysis by the Legislative Reference Bureau

Under current law there is a tax of \$2.60 per wine gallon on intoxicating liquor, except wine, containing 0.5% or more of alcohol by volume.

This bill reduces to \$1 per wine gallon the tax on intoxicating liquor, containing 0.5% or more of alcohol by volume which is manufactured or distilled in this state by pollution control facilities or from whey and brewing wastes produced in this state.

For further information, see the fiscal note which will be printed as an appendix to the proposal.

As shown in the LRB analysis, 1977 Assembly Bill 351 required a fiscal estimate. Since it had not been obtained prior to introduction (for printing with the proposal), LRB sent the bill to the Department of Administration, for preparation of the fiscal estimate, immediately upon introduction.

- 4
- 5 The people of the state of Wisconsin, represented in senate and
- 6 assembly, do enact as follows:
- 7 SECTION 1. 139.03 (2m) (intro.) of the statutes is amended to
- 8 read:
- 9 139.03 (2m) (intro.) The rate of such tax, effective November
- 10 5, 1971, and thereafter, is \$2.60 per wine gallon on intoxicating
- 11 liquor, except wine and intoxicating liquor taxed under sub. (2t),
- 12 containing 0.5% or more of alcohol by volume, and is computed in

Since 1848, the Wisconsin Constitution has contained a prohibition against in-house printing for the legislature.

[Article IV] STATIONERY AND PRINTING. SECTION 25. The legislature shall provide by law that all stationery required for the use of the state, and all printing authorized and required by them to be done for their use, or for the state, shall be let by contract to the lowest bidder, but the legislature may establish a maximum price; no member of the legislature or other state officer shall be interested, either directly or indirectly, in any such contract.

The state's Department of Administration, under Chapter 35 of the Statutes, by sealed bid selects contract printers for the various forms of printing required by the Legislature.

In the case of legislation, the contract requires Capitol delivery, of everything received by the printer in the afternoon, no later than 8:30 a.m. on the next business day of the Legislature. Standard quantities printed are 1,100 copies for bills and any amendments thereto, and lesser quantities for joint resolutions and resolutions.

For some proposals -- e.g. the budget bill and the budget review bill; major recodifications -- additional copies are needed to satisfy the demand. The printing of additional copies can in each house be authorized on the signatures of a majority of the 5-member Committee on Organization of that house.

#### THE FISCAL ESTIMATE:

The Wisconsin Legislature was the first legislature in the nation to require that all legislation to increase or decrease state revenues or expenditures be analyzed for its fiscal impact. The requirement has been in effect since 1955. Beginning with the 1975 Session, fiscal estimates had to show not only the effect on the finances of the state, but also the impact on local government. In anticipation of the 1977 Session the fiscal estimate procedure was extensively revised. For a detailed description, see Joint Rules 41 to 49.

When the Department of Administration receives a bill for preparation of a fiscal estimate, that department selects the state agency most likely in possession of the statistical data required for a reasonable evaluation of the proposal. In the case of 1977 Assembly Bill 351, preparation of the fiscal estimate was assigned to the Department of Revenue.

Theoretically, fiscal estimates must be developed "within 5 working days" [Joint Rule 46 (2)]; practically, in many cases the preparation takes longer. This has a serious consequence for the legislative process. Section 13.10 (2) of the Statutes prohibits all legislative action (other than referral of the bill to a standing committee) on a proposal requiring a fiscal estimate, until that estimate is received by the Legislature. For 1977 AB-351, the fiscal estimate was requested on February 15 (the day on which the bill was introduced). The agency signature on the estimate indicates that it was completed on February 23, but the bill history did not record "fiscal note received" until March 1, 1977.

When the Department of Administration returns the completed fiscal estimate to the LRB, the bill's primary author is given a copy of the estimate for review. If the author agrees with the estimate, it is sent out for printing to be attached to the bill (and for distribution to the legislators) in the same fashion in which amendments are printed and distributed. If the bill's author

disagrees with the estimate -- see Joint Rule 48 -- there is a 5-day period during which the author can discuss the reasons for the disagreement with the agency that prepared the estimate (perhaps, it misunderstood the proposal), but if the agency persists, the estimate is printed no later than the 6th day after deposit in the LRB. Any legislator who disagrees with a fiscal estimate can ask either the DOA, or the Legislative Fiscal Bureau, to prepare a supplemental fiscal estimate; if such an estimate is prepared, it is also printed and distributed. Finally, when the agency preparing the fiscal estimate decides that the estimate needs to be revised based on later information, a revised estimate can be printed and distributed. The more information, and the more accurate it is, the better -- but only the filing of the first estimate with the Chief Clerk is required by s. 13.10 (2) to release the bill for committee hearing and legislative action.

**ESTIMATE WORKSHEET**  
 Estimate of Annual Fiscal Effect  
 A.A.#2 (Revised 1/77)

ORIGINAL  CORRECTED

Subject: Special Tax Schedule for Liquor Produced from Brewing Wastes, etc.

State Costs by Category:

Additional FTE Positions \_\_\_\_\_

Salaries and Fringes \_\_\_\_\_

Staff Support \_\_\_\_\_

Other \_\_\_\_\_

Local Assistance \_\_\_\_\_

Aids to Individuals or Organizations \_\_\_\_\_

**TOTAL** \_\_\_\_\_

Start-up or Other One-time Costs \_\_\_\_\_

**1977 Assembly bill 351**

FISCAL ESTIMATE  ORIGINAL  UPDATED  
 AD-MBA-23 (1/77)  CORRECTED  SUPPLEMENTAL

1977 Session

LRB or Bill No. AB 351  
 Amendment No. if Applicable \_\_\_\_\_

If there is a state or local fiscal effect, attach worksheet.

Subject: Special Tax Schedule for Liquor Produced from Brewing Wastes, etc.

Fiscal Effect:

State:  Increase/Decrease Existing Appropriation  Increase Costs -- May Be Possible to Absorb Within Agency's Budget  Yes  No  
 Create New Appropriation  Decrease Costs  
 Increase/Decrease Existing Revenues  No State Fiscal Effect (See note below)

Local:  Increase/Decrease Costs or Revenue  No Local Fiscal Effect  
 Permissive  Mandatory

Fund Sources Affected:  GPR  FED  PRO  PRS  SEG

Affected Ch. 20 Appropriations \_\_\_\_\_

Assumptions Used in Arriving at Fiscal Estimate \_\_\_\_\_

It is anticipated that this bill would have no state or local fiscal impact. Federal authorities report that they rejected the only request to sell liquor produced from brewing wastes. No liquor is now being produced from whey, and these officials view the possibility of permitting its sale as highly unlikely. In short, AB 351 is moot; it places a tax on liquor that cannot be sold for beverage purposes.

State Costs by Fund:

GPR \_\_\_\_\_

FED \_\_\_\_\_

PRO \_\_\_\_\_

PRS \_\_\_\_\_

SEG \_\_\_\_\_

**TOTAL** \_\_\_\_\_

State Revenues -- Correct such as:

GPR Taxes \_\_\_\_\_

GPR Earned \_\_\_\_\_

FED \_\_\_\_\_

PRO \_\_\_\_\_

PRS \_\_\_\_\_

SEG \_\_\_\_\_

**TOTAL** \_\_\_\_\_

*Sen Org.*

FISCAL ESTIMATE  ORIGINAL  UPDATED  
 AQ-MBA-23 (1/77)  CORRECTED  SUPPLEMENTAL

1977 Session

LRB or Bill No. AB 351  
 Amendment No. if Applicable \_\_\_\_\_

If there is a state or local fiscal effect, attach worksheet.

Subject: Special Tax Schedule for Liquor Produced from Brewing Wastes, etc.

Please revise Long-Range Section to read as follows:

**Long-Range Fiscal Implications**  
 Should the policy on brewing waste alcohol be modified--a conceivable possibility--current production levels of 25,000 gallons/month at the only active manufacturer could result in annual revenues of \$300,000. This is \$480,000 less than would be raised if the standard \$2.60/gallon liquor tax rate were applied.

Agency: \_\_\_\_\_ Revenue: \_\_\_\_\_

Authorized Representative: *Kathie Kipton* Date: 5/31/77

**Long-Range Fiscal Implications**  
 Should the policy on brewing waste alcohol be modified--a conceivable possibility--current production levels of 25,000 gallons/month at the only active manufacturer could result in annual revenues of \$300,000.

State	FY Increases	NET Affect FY Dec
Total Costs	\$ -	\$ +
Total Revenues	+	-
<b>NET STATE IMPACT</b>	\$	None

Agency	Revenue	NET LOCAL IMPACT
Agency	Revenue	\$
<b>NET LOCAL IMPACT</b>		\$

Authorized Representative: *Robert H. Melbourn* Date: 2/23/77

1977 AB-351 received a revised fiscal estimate on May 31, 1977.

THE PUBLIC HEARING IS SCHEDULED:

Almost every proposal introduced in the Wisconsin Legislature is given a public hearing by a standing committee in the house of origin (a few bills, generally those of a noncontroversial nature, are reported to the house of origin without public hearing). Many bills, having passed the house of origin, are given another public hearing by a standing committee of the 2nd house.

In Wisconsin, public hearings have been open to the general public for longer than anyone can remember. The so-called "executive session", in which the standing committee votes on each proposal referred to it so as to formulate its recommendation to the house, is also open to the public. The only difference is that in the "public hearing" lobbyists, representatives of state agencies and members of the general public may "appear" (speak for or against) or "register" on the bill, while in the executive session active participation is limited to the members of the committee. Many public hearings and executive sessions are attended by representatives of the news media. And, speaking of open meetings, beginning in the 1975 Session the party caucuses of the 2 houses of the Wisconsin Legislature also opened their meetings to the press and the general public.

Whether, or when, to schedule committee action on business referred to the committee is the prerogative of the committee chairperson:

[Assembly Rule 11] (10) The chairperson shall determine when bills will be scheduled for public hearing, when executive action shall be taken, and when the action of the committee shall be reported to the assembly. [See also Senate Rule 25 (1).]

The fiscal estimate for 1977 AB-351 was deposited with the Assembly Chief Clerk on March 1, 1977. This released the bill -- see s. 13.10 (2), stats. -- for public hearing and legislative action. Representative Leo O. Mohn, chairperson of the standing Assembly Committee on Agriculture, scheduled the public hearing on AB-351 for March 16.

Assembly Rule 14. PUBLIC HEARING BY COMMITTEE. Any proposal referred to a committee, and any other appropriate business, may at the discretion of the chairperson be scheduled for public hearing.

(1) On or before Monday noon of each week, the chairperson of each standing committee shall post on the assembly bulletin board and file with the chief clerk a list of the public hearings which will be held before such committee during the following week. The announcement of any hearing shall give the day, hour and place and the nature of the business, or the number, author and title of any proposal, to be considered. These lists shall be printed in the weekly bulletin of hearings.

(2) No hearing shall be held until copies of any of the legislation scheduled for hearing are available to the public.

The public hearing on 1977 Assembly Bill 351 was announced on page 4 of the "Assembly Bulletin of Committee Hearings" for the week beginning on Monday, March 14, 1977. The hearing was scheduled for Room 424 Northeast, the room

regularly assigned to the Assembly Committee on Agriculture for its committee business. However, because of an unusually large anticipated public turnout (based on the matters scheduled by the committee for that day), the hearing was

subsequently rescheduled to take place in the largest room available to the Assembly for public hearings: the Assembly Chamber itself.

# ASSEMBLY BULLETIN OF COMMITTEE HEARINGS

WISCONSIN LEGISLATURE



FOR  
WEEK COMMENCING  
MONDAY  
MARCH 14, 1977

- 4 -

## AGRICULTURE

Leo O. Mohn, Chairperson

Room 424 Northeast

Wednesday, March 16, 1977; 1:30 P.M.

**Assembly Resolution 15** (Reps. Hephner, Mohn, Day, Swoboda, Potter, Lallensack, Fischer, Hasenohrl, Lewis, Litscher, Lewison, Porter, Ausman, Barry, Lato, Duren, Groshek, Dueholm, Schricker, Bradley, Merkt, Olson, Gunderson, Tregoning, and Thompson) A RESOLUTION to conduct a study of the purchase of agricultural lands with pension and profit sharing funds.

**Assembly Jt. Res. 37** (Reps. Hephner, Mohn, Rogers, Tesmer, Early and Dueholm) A JOINT RESOLUTION directing the legislative council to study the need for weather modification legislation.

**Assembly Bill 351** (Reps. Day, Jackamonis, Hasenohrl, Lallensack, Potter, Byers, Vanderperren, Litscher, Groshek, Mohn, Donoghue, Schricker, Swoboda, Luckhardt, McClain, Conradt, Bradley, Porter, Wahner and Schmidt; co-sponsored by Sens. Morrison, Radosevich, Maurer, Berger, Cullen, Bablitch, Chilsen, Harnisch, Frank and Krueger) AN ACT relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities.

**Assembly Bill 382** (Reps. Everson, Mohn, Litscher, Day and Barry) AN ACT relating to creating a fertilizer research fund and making an appropriation.

NOTE: In order to have hearings noted in the Bulletin of Hearings it is necessary that a list of hearings be filed with the Chief Clerk before noon, Monday of each week.

EVERETTE F. BOILE  
Chief Clerk of the Assembly

AN AMENDMENT IS OFFERED:

In the Wisconsin Legislature, amendments to proposals can be offered on any session day, right until the proposal reaches the end of its amendable stage with the adoption of the motion: "Shall the bill be ordered engrossed and read a 3rd time?". When a legislator offers an amendment while the proposal is still in committee, the amendment is deposited with the Chief Clerk for numbering (with a copy returned to LRB to be sent out for printing) and recording in the bill history and the daily journal. The amendment itself is then forwarded to the standing committee holding the proposal so that the committee can review the proposal as affected by the amendment. In the Assembly, only amendments recommended by the committee for adoption by the house are mentioned in the committee report [but others may be "revived"; see Assembly Rule 18 (intro.) to (3)]. In the Senate -- see Senate Rule 54 -- all amendments are reported back to the Senate.

The Assembly Journal for March 16, 1977, records that Rep. Gervase A. Hephner offered an amendment to 1977 AB-351. The amendment was probably deposited in the Chief Clerk's office on the preceding day; in any case, since floor sessions are held in the morning and committee business is conducted in the afternoon, Rep. Hephner's "Assembly Amendment 1, to 1977 Assembly Bill 351" was available to the Assembly Committee on Agriculture when it conducted its public hearing on March 16.

**JOURNAL OF THE ASSEMBLY [March 16, 1977]**

Assembly amendment 1 to assembly substitute amendment 1 to Assembly Bill 300 offered by Representatives Lee and Jackamonis.

Assembly amendment 1 to Assembly Bill 351 offered by Representative Hephner.

Assembly amendment 1 to Assembly Bill 1977 Representative Thompson.

STATE OF WISCONSIN

LRB-3142/1  
RL:ps

ASSEMBLY AMENDMENT 1,  
TO 1977 ASSEMBLY BILL 351

**INTRODUCTION AND REFERENCE OF**

Lewis, Duren, Kirby, Looby, Metz, Hanson and  
To committee on Local Affairs.

March 16, 1977 - Offered by Representative HEPHNER.

**Assembly Resolution 20**  
Relating to calendar scheduling of p  
rules committee during any committee wor  
By Representative Jackamonis.  
To committee on Rules.

**Assembly Joint Resolution 40**  
Relating to 4-year terms of office for  
filled at the spring election (1st considerati  
By Representative Hanson.  
To committee on Elections.

- 1 Amend the bill as follows:
- 2 1. On page 2, line 10, after "table" insert ", and the depart-
- 3 ment of revenue shall calculate the equivalent rates for metric con-
- 4 tainers".

(End)

**INTRODUCTION AND REFERE**

Read first time and referred:

**Assembly Bill 477**  
Relating to credit restrictions on sale of

THE PUBLIC HEARING BEFORE THE ASSEMBLY COMMITTEE ON AGRICULTURE:

The Assembly Committee on Agriculture held its public hearing on 1977 AB-351 on March 16, 1977. In all, the committee had scheduled for hearing on that day one resolution, one joint resolution and 2 bills. Immediately following the completion of its hearing schedule, the committee went into executive session to vote on its recommendations to the Assembly.

Among those speaking for AB-351 were the bill's requester, Rep. Day, the Speaker of the Assembly, Rep. Jackamonis, and 5 persons connected with Wisconsin agriculture. Of these, 2 persons (Blaska and Cobbs) came to the committee as private citizens involved in the production of milk, and 3 were registered lobbyists.

Any citizen may appear at public hearings and present his views. However, any person who receives a salary, fee or retainer for his efforts to influence legislative or administrative action by direct oral or written communication with any elective state official, agency or legislator must register with the Secretary of State as a lobbyist. For the law regulating the practice of lobbying, see Sections 13.61 to 13.74 of the Statutes.

The registered lobbyists who spoke at the March 16 hearing on AB-351 were Charles Farr for Wisconsin Federation of Cooperatives, Roland Behle for Wisconsin Cheese Makers Assn., and Harry Laszewski for Associated Milk Producers, Inc.

J.K. Leidiger, for the state's Department of Revenue, spoke against the bill. Three persons spoke "neither for nor against" -- in general, this means that the person has special knowledge of the subject matter under consideration by the committee and volunteers to answer the committee's questions, but does not want to take a stand on the issue. "Registrations" for or against the bill mean that the persons were at the hearing and filled in registration slips, but did not speak before the committee. There were 4 registrations "for" 1977 AB-351, and no registrations "against".

In the executive session of the committee Rep. Hephner, the author of the amendment but also a member (vice chairperson) of the committee, moved that the amendment be recommended for adoption. This motion passed and the bill, as so amended, was then recommended for passage by the Assembly.

As shown by the committee report reproduced on the following page, the vote of each member of the committee is recorded by name. As in the case of the daily journal, the committee report usually does not contain any information on the content of the proposal (sometimes, a summary is prepared by the Legislative Council Staff and inserted into the committee record), and does not record or summarize the arguments for or against the proposal. However, such information is frequently provided in the press dispatches from the Capitol, as illustrated by the SHEBOYGAN PRESS report of March 18, 1977.

Assembly Bill 351

(Representatives Day, Jackamonis, Hasenohrl, Lallensack, Potter, Byers, Vanderperren, Litscher, Groshek, Mohn, Donoghue, Schricker, Swoboda, Luckhardt, McClain, Conratt, Bradley, Porter, Wahner and Schmidt; co-sponsored by Senators Morrison, Radosevich, Maurer, Berger, Cullen, Bahlitch, Chilsen, Harnisch, Frank and Krueger) AN ACT relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities.

February 15, 1977

Referred to Committee on Agriculture

March 16, 1977

Hearing held at 2:00 P.M. in Assembly Chambers

Present: Representative Mohn, Chairman; Representatives Hephner, Swoboda, Day, Lato, Litscher, Barry, Fischer, Luckhardt, Olson, Tregoning and Merkt

Absent: Representative Everson

Appearances for the bill:

Representative Day, Author  
Representative Jackamonis, for 98th Assembly District  
Charles Farr, Madison, for Wisconsin Federation of Cooperatives  
Roland C. Behle, Madison, for Wisconsin Cheese Makers' Association  
Jerome Blaska, Sun Prairie, for AMPI Corporation area 5  
Harold V. Cobbs, Lodi, for Associated Milk Producers  
Harry Laszewski, Fond du Lac, for Associated Milk Producers, Inc.

Appearances against the bill:

J.K. Leidiger, Madison, for Wisconsin Department of Revenue

Appearances neither for nor against:

Dr. Sheldon Bernstein, Juneau, for Milbrew, Inc.  
Paul Didier, Madison, for Wisconsin Department of Natural Resources  
Dave O'Malley, Waunakee, for Wisconsin Department of Agriculture

Registrations for the bill:

Senator Berger, for self  
Francis G. Blackburn, Madison, for Wisconsin Federation of Cooperatives  
Jim Bradley, Sun Prairie, for Dane County Farmers Union  
Roger Cliff, Madison, for Wisconsin Farm Bureau  
Eugene H. Skaar, Cottage Grove, for self and dairy farmers

Registrations against the bill:

None

March 16, 1977

EXECUTIVE SESSION

Present: Representative Mohn, Chairman; Representatives Hephner, Swoboda, Day, Lato, Litscher, Barry, Fischer, Luckhardt, Olson, Tregoning and Merkt

Absent: Representative Everson

Assembly Bill 351

Moved by Representative Hephner, seconded by Representative Day, that Assembly Amendment 1, to Assembly Bill 351, be recommended for adoption.

Ayes: (12) Representatives Mohn, Hephner, Swoboda, Day, Lato, Litscher, Barry, Fischer, Luckhardt, Olson, Tregoning and Merkt.

Noes: (0)

Absent: (1) Representative Everson

Motion carried: Adoption recommended.

Moved by Representative Hephner, seconded by Representative Luckhardt, that Assembly Bill 351, as amended by Assembly Amendment 1, be recommended for passage.

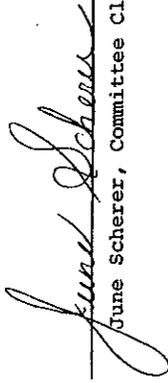
Ayes: (12) Representative Mohn, Hephner, Swoboda, Day, Lato, Litscher, Barry, Fischer, Luckhardt, Olson, Tregoning and Merkt.

Noes: (0)

Absent: (1) Representative Everson

Motion carried:

ADOPTION OF ASSEMBLY AMENDMENT 1, AND PASSAGE RECOMMENDED.

  
June Scherer, Committee Clerk.

The SHEBOYGAN PRESS report (March 18, 1977) of the March 16, 1977, public hearing before the Assembly Committee on Agriculture on 1977 Assembly Bill 351:

# Assembly Bill Would Lower Tax On Liquor From Whey

SHEBOYGAN PRESS

By ELLEN PORATH

Associated Press Writer

MADISON, Wis. (AP) — Wisconsin dairy farmers trying to dispose of cheese-making byproducts may have a new way to get rid of the whey, if an Assembly bill setting a lower tax on liquor made from such materials passes the legislature.

The bill would reduce to \$1 per wine gallon the tax on intoxicating liquor containing 0.5% or more alcohol which is produced by pollution control facilities or from whey and brewing wastes.

Current law places a tax of \$2.60 per wine gallon on liquor. MAR 18 1977

The bill's authors, Reps. Edward Jackamonis, D-Waukesha, and Laurence Day, D-Eland, told the Assembly Agriculture Committee Wednesday the bill was meant to ease a situation in which state cheese producers are left with 13.5 billion pounds of whey a year to dispose of.

Although some of the whey is made into animal feed, Day said, the process is a breakeven one financially.

"Several whey plants in the state are near closing because they cannot make animal feed at a profit," Day said.

Roland Behle, executive director of the Wisconsin Cheesemakers Association, agreed.

"There is absolutely no profitability left in the production of byproduct animal

feed," Behle said, adding that finding of way of disposing of whey could mean the difference between surviving and going out of business to a cheesemaker.

Behle said problems with whey disposal are relatively new.

He said until 10 years ago, cheese production was not high enough to cause a whey problem, but dramatic increases in cheese consumption and production have aggravated the situation.

Behle said cheese production now is twice what it was 10 years ago, with producers making 1.1 billion pounds a year.

Jackamonis said "it was once acceptable to dump this in streams and waterways," but added that is no longer feasible.

"Much of it ends on fields and is a great problem to our natural resources," Day said.

Harry Laszewski of the Associated Milk Producers, Inc., said it costs farmers "thousands upon thousands upon thousands of dollars to get rid of this stuff."

The whey, once converted to alcohol through fermentation, could be used to make various drinkable liquors, said Dr. Sheldon Bernstein of Milbrew, Inc.

"It could not be used in standard whisky. However, it could be used in vodka, gin and probably could be used in

cordials and liqueurs," Bernstein said.

He added the whey could be used to make up to 190 proof pure ethyl alcohol—95% alcohol and 5% water.

At one point in the hearing, Day clashed with Wisconsin Department of Revenue representative J. K. Leidinger over the bill's fiscal note.

Leidinger said the bill would result in a loss of \$486,000 in state revenue because more alcohol would be taxed at the \$1 rate than at the \$2.60 rate.

Day said there could be a loss only if whey alcohol replaced all alcohol and said the state could make up any deficits in more corporate and employment taxes.

Jackamonis took a lighter approach to the matter.

"I think the fiscal note is 'whey' out of line," he said, adding "it's a good thing we don't have a 'wheys' and means committee in the legislature."

The committee also considered a bill to create a fertilizer research fund by initiating a 10 cent a ton tax on fertilizers.

The fund would be used for research by the University of Wisconsin College of Agriculture and Life Sciences, and could cost farmers an additional \$1.14 a year, according to Oliver Jacobson of Jacobson Farmers Supply in Dodge County.

Following public hearing and executive session, it may take a few days for the committee clerk to type up the report. That done, the actual decision of when to release the committee report to the Assembly is made by the chairperson of the committee. In the case of 1977 AB-351, the committee report was officially received by the Assembly on March 29, about 2 weeks after the March 16 hearing date.

The return of 1977 Assembly Bill 351 from the Assembly Committee on Agriculture, and the committee's recommendations on the bill, were recorded on page 415 of the Assembly Journal for March 29, 1977.

<b>JOURNAL OF THE ASSEMBLY [March 29, 1977]</b> <b>COMMITTEE REPORTS</b> The committee on Agriculture reports and recommends: Assembly Joint Res. 100	
<b>Assembly Bill 351</b> Relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities. Adoption of assembly amendment 1: Ayes: (12) Noes: (0) Passage: Ayes: (12) Noes: (0) To committee on Rules.	
LEO MOHN Chairperson	
Ayes: (11) Noes: (0)	Public Safety reports 415

Following receipt of the Committee on Agriculture's report on 1977 AB-351 by the Assembly, the Speaker referred the bill to the Committee on Rules for scheduling.

#### SCHEDULING THE BILL FOR 2ND READING AND AMENDMENT:

Several sessions ago, the content of the calendar for each daily session of the Wisconsin Legislature was pretty much determined by accident: under the rules, the Chief Clerk had the duty to enter every proposal received from a committee on the daily calendar next to be printed. Sometimes, this caused considerable delay in the consideration of proposals because too much was scheduled for the individual session day, and caused inconvenience and confusion to both members of the Legislature and the general public who expected to find a specific bill debated on the posted day -- only to learn that the Legislature might be several days behind on its calendar.

A new calendar scheduling procedure, first enacted for the Senate in 1975 and for the Assembly in 1977, has completely cleaned up the calendar backlog. In the Senate, every proposal reported by committee goes to the Committee on Senate Organization for calendar scheduling [see Senate Rule 18 (1)]. That committee -- consisting of the President pro tem of the Senate, the Majority and the Minority Leader, and the Assistant Majority Leader and Minority Leader -- has complete control of scheduling and is thus able to build daily calendars of manageable proportions and containing proposals dealing with related issues. In

the Assembly, the calendar scheduling function was vested in the Assembly Committee on Rules [see Assembly Rules 45 and 24 (3)], but the Speaker retains the authority to refer business received by the Assembly either to the Committee on Rules for later scheduling, or directly to calendar. The Committee on Rules is also a bipartisan committee. The Assembly Committee on Rules is required to schedule all proposals received by it for calendar scheduling within 3 weeks.

The bill history for 1977 AB-351 shows that the Rules Committee acted on the bill on April 6, and placed it on the calendar for April 13, 1977, under the "11th order" of business for that date: "2nd reading and amendment of assembly bills and joint resolutions".

Assembly Rule 29 provides that daily meetings commence at 10 a.m. unless a different hour was specified in the motion to adjourn. In practice, Assembly sessions begin at 10 a.m. only on the first meeting day in each week, and begin at 9 a.m. on all subsequent meeting days in that week. The daily sessions of the Senate usually start at 10 a.m. On a typical session day, floor sessions are held in the morning, while the afternoons are devoted to committee business. Later in the session, the Assembly frequently continues its daily floor session in the evening, after the conclusion of the day's committee meetings.

The calendar lists every "order of business" [see Senate Rule 17 (1); Assembly Rule 31], whether or not business has been scheduled for that day under each order. Where appropriate, the calendar also shows the question which, if approved, concludes consideration of the proposal at that stage. Under the rules -- see S. Rule 35 and A. Rules 42 and 43 -- proposals generally receive 3 separate readings, and these 3 readings are to occur on separate days.

**Assembly Calendar Wednesday April 13, 1977 9:00 A.M.**

1. Call of the roll.
2. Introduction, first reading and reference of resolutions.
3. Introduction, first reading, and reference of bills.
4. Petitions and communications.
5. Committee reports and subsequent reference of proposals.
6. Executive communications.
7. Messages from the senate and action thereon.
8. Motions may be offered.
9. Consideration of motions for reconsideration.
10. Consideration of resolutions.
11. Second reading and amendment of Assembly bills and joint resolutions.  
QUESTION: Shall the bill be ordered engrossed and read a third time?  
  - A. ~~and employees.~~ Representatives Hauke, Behnke, Litscher, 11, Noes 1. Placed on calendar by Committee on Rules.
  - Assembly Bill 351 FN (Introduced by Representatives Day, Jackamonis, Hasenohrl, Lallensack, Potter, Byers, Vanderperren, Litscher, Groshek, Mohn, Donoghue, Schricker, Swoboda, Luckhardt, McClain, Conradt, Bradley, Porter, Wahner and Schmidt, co-sponsored by Senators Morrison, Radosevich, Maurer, Berger, Cullen, Bablitch, Chilsen, Harnisch, Frank and Krueger) Relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities. Report Assembly Amendment 1 adoption, Ayes 12, Noes 0; passage recommended by Committee on Agriculture, Ayes 12, Noes 0. Placed on calendar by Committee on Rules.
  - Assembly Bill 198 (Introduced by ~~Representatives~~ ~~and employees.~~ ~~Representatives~~ ~~Hauke, Behnke, Litscher,~~ ~~11, Noes 1.~~ Placed on calendar by Committee on Rules.
12. Second reading and amendment of Senate bills and joint resolutions.  
QUESTION: Shall the bill be ordered to a third reading?
13. Third reading of Assembly bills.  
QUESTION: This bill having been read three times, shall the bill pass?
14. Third reading of Senate bills.  
QUESTION: This bill having been read three times, shall the bill be concurred in?
15. Announcements.
16. Adjournment.

GERMANENESS OF AMENDMENTS:

An amendment is sometimes challenged on the ground that it is "not germane". This allegation is serious. If the point of order is held "well taken", the amendment dies without a vote.

On the whole, an amendment is germane when it deals with the same issue as the measure which it proposes to amend. The practical application of this simple rule, however, can lead to all kinds of difficulties. In 2 centuries of American parliamentary practice, presiding officers have had to decide the issue of germaneness over and over again -- and to the extent that the prior decisions were recorded and codified, subsequent presiding officers have been able to build upon the experience of their predecessors.

Wisconsin Assembly Rule 50 and Senate Rule 50 both deal with germaneness of amendments. The rules are quite similar. Here is the text of Assembly Rule 50:

Assembly Rule 50. GERMANENESS OF AMENDMENTS. (1) General statement: The assembly shall not consider any simple amendment or substitute amendment which relates to a different subject or is intended to accomplish a different purpose than that of the proposal to which it relates or which, if adopted and passed, would require a title essentially different from the original title or would totally alter the nature of the original proposal.

(2) Procedure: The presiding officer shall rule as to the admissibility of an amendment when the question of germaneness is raised; but such question shall apply only to amendments originating in the assembly and currently before the assembly, and shall not be in order once an amendment has been adopted.

(3) Amendments which are not germane:

(a) One individual proposition amending another individual proposition;

(b) A general proposition amending a specific proposition;

(c) Amendments substantially similar to amendments already acted upon;

(d) Substitute amendments amending a statute repealed by a bill, or a substitute amendment repealing a statute amended by a bill;

(e) An amendment which negates the effect of another amendment previously adopted.

(f) An amendment which substantially expands the scope of the proposal.

(4) Amendments which are germane:

(a) A specific provision amending a general provision;

(b) An amendment which accomplishes the same purpose in a different manner;

(c) An amendment limiting the scope of the proposal;

(d) Amendments adding appropriations measures necessary to fulfill the original intent of a germane proposal;

(e) Amendments relating only to particularized details.

(5) An amendment to an amendment must be germane to both the amendment and the original proposal.

SECOND READING AND AMENDMENT:

The "2nd reading" of 1977 Assembly Bill 351 was one of several items scheduled for consideration by the Assembly under the "11th order" of business on April 13, 1977.

As soon as the Assembly had completed its actions on the preceding item (AB-324), Speaker Jackamonis announced: "The Clerk will read the title of the next bill."; and Chief Clerk Bolle proceeded: "Assembly Bill 351. Relating to a tax on liquor produced from whey and brewing wastes or by pollution control facilities."

The formal "reading" of a proposal at each stage of the legislative process -- first, 2nd and 3rd reading -- was reduced to the reading of the "relating clause" part of the title many decades ago (the distribution of printed copies to every member of the Legislature made reading at length unnecessary). Today, printed copies of all proposals are furnished not only to legislators; anyone interested in the proceedings of the Legislature can subscribe to the complete set for a fee, and single copies are available free for the asking.

Following the Chief Clerk's reading of the title (relating clause) of 1977 AB-351, the Speaker announced the immediate question before the house:

"Shall Assembly Amendment 1 to Assembly Bill 351 be adopted?"

JOURNAL OF THE ASSEMBLY [April 13, 1977]	
	The question was: Shall Assembly Bill 324 be ordered engrossed and read a third time?
Motion carried.	
Absent	
Re	Motion carried.
be su	Representative Wahner asked unanimous consent that the rules be suspended and that Assembly Bill 324 be immediately messaged to the senate. Granted.
Gran	
tim	The speaker in the chair.
	<b>Assembly Bill 351</b>
	Relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities.
	The question was: Shall assembly amendment 1 to Assembly Bill 351 be adopted?
	614

The Assembly Journal does not record the remarks of members (except in special circumstances). It is likely, however, that the Chair then recognized Rep. Hephner, the author, for a brief explanation of the amendment. Sometimes, other members will rise and, when recognized, ask the member holding the floor for information concerning the content and purpose of the amendment.

Assembly Amendment 1 to 1977 AB-351 was not controversial. Traditionally, liquor tax tables in Wisconsin law had been established in relation to gallons and ounces, and the bill followed that tradition. However, earlier in the 1977 Session -- as Rep. Hephner might have reminded his colleagues -- the Legislature had enacted a law permitting the sale of liquor in metric containers (Chap. 12, Laws of 1977). The amendment merely directed the Department of Revenue to calculate metric equivalents for fluid ounce measures shown in the tax table contained in the bill itself.

Had the amendment been controversial (which it was not), someone might have moved: "That the amendment be rejected." When such a motion is entered,

then the negative question is put first, and the question of "adoption" comes to a vote only if the question of "rejection" fails. Similarly, for a controversial amendment someone might have requested a roll call vote; if one-sixth of the members present (in the Assembly, always, 15) show their support for the roll call request by rising in their assigned seats, a roll call will be ordered.

Assembly Amendment 1 to 1977 AB-351, being noncontroversial, was adopted by a voice vote (sometimes called a vote "viva voce"). When it appeared that nobody else wanted to speak on the amendment, Speaker Jackamonis once more repeated the question (Shall A.Amdt. 1 be adopted?) and called for the "ayes" and "noes": "Those in favor, say 'aye'." "Those opposed, say 'no'". Had there been doubt as to the division of the house, he might have followed with: "The 'ayes' appear to have it?" and, hearing no disagreement, announced: "The 'ayes' have it." In the terse prose of the Assembly Journal, this entire sequence is covered by the simple entry:

"Motion carried."

The next step in the treatment of 1977 Assembly Bill 351 was a procedure which may be unique to the Wisconsin Legislature. The bill was "dipped" through the Joint Committee on Finance. Section 13.10 (1) of the Wisconsin Statutes requires that: "All bills introduced in either house of the legislature for the appropriation of money, providing for revenue or relating to taxation shall be referred to the joint committee on finance before being passed." On the other hand, Section 16.47 (2) shows that the main concern is with proposals

"affecting state finances by more than \$100,000 biennially"; that bill passage is easier for proposals in the \$100,000 (2 years) to \$10,000 (1 year) range; and that bills with a fiscal effect of less than \$10,000 per year can be treated in an even more streamlined fashion. 1977 AB-351 was assumed to have a negligible fiscal effect; the bottom line on the worksheet proclaimed: "NET STATE IMPACT \$ None". Rep. Ferrall, the Assistant Majority Leader, requested

JOURNAL OF THE ASSEMBLY [April 13, 1977]

Motion carried.

Representative Ferrall asked unanimous consent that **Assembly Bill 351** be referred to the Joint Committee on Finance. Granted.

Representative Ferrall asked unanimous consent that **Assembly Bill 351** be withdrawn from the Joint Committee on Finance and taken up at this time. Granted.

Representative Dorff asked unanimous consent that **Assembly Bill 351** be referred to the committee on Excise and Fees.

Representative Day objected.

Representative Dorff moved that **Assembly Bill 351** be referred to the committee on Excise and Fees.

The question was: Shall **Assembly Bill 351** be referred to the committee on Excise and Fees?

The roll was taken.

The result follows:

Ayes -- Andrea, Bear, Czerwinski, Dorff, Miller, Pabst, Ward and Wood -- 8.

Noes -- Ausman, Barczak, Barry, Behnke, Bradley, Brist, Byers, Clarenbach, Coggs, Conradt, Dandeneau, Day, DeLong, Donoghue, Dueholm, Duren, Early, Elconin, Ellis, Engeleiter, Everson, Ferrall, Fischer, Flintrop, Gerlach, Goodrich, Gower, Groshek, Gunderson, Hanson, Hasenohrl, Hauke, Hephner, Johnson, Johnston, Kedrowski, Kincaid, Kirby, Klicka, Lallensack, Lato, Lee, Leopold, Lewis, Lewison, Lingren, Litscher, Loftus, Looby, Lorman, Luckhardt, McEssy, Matty, Medinger, Menos, Merkt, Metz, Mohn, Moody, Munts, Murray, Norquist, Olson, Opitz, Otte, Plewa, Porter, Potter, Quackenbush, Roberts, Rogers, Rooney, Roth, Rutkowski, Schmidt, Schneider, Schricker, Shabaz, Snyder, Soucie, Swoboda, Tesmer, Thompson, Travis, Tregoning, Tropman, Tuczynski, Vanderperren, Wahner and Mr. Speaker -- 90.

Absent or not voting -- McClain -- 1.

Motion failed.

The question was: Shall **Assembly Bill 351** be ordered engrossed and read a third time?

Motion carried.

"unanimous consent" to refer the bill to the Joint Committee on Finance [so as to comply with s. 13.10 (1)] and, immediately following, to withdraw the bill from that committee so that action on the bill could continue.

Now came the only point of disagreement. Rep. Dorff, the chairperson of the Committee on Excise and Fees, felt that 1977 AB-351 should be referred to his committee. In the abstract, this seems logical: the tax on alcohol is an excise tax, and the bill dealt with the excise tax on alcohol produced in a specific manner. As a practical matter, however, few proposals are ever so specific in their content that they clearly are of concern only to a single standing committee. The Wisconsin Legislature expects each of its standing committees to make a comprehensive review of the proposals referred to it so that, on the whole, there is hardly ever a situation that requires the re-referral of a proposal to a different standing committee for additional information.

Rep. Day objected to the "unanimous consent" request. Rep. Dorff moved that the bill be re-referred to his committee. This question was decided by a roll call vote. Only 8 members (including 3 who would ultimately vote against the bill's passage) voted to refer the bill; 90 votes were cast to keep the bill on the floor.

(The printout of a roll call vote, as compiled by the Assembly voting machine.)

WISCONSIN ASSEMBLY ROLL CALL No. 0468											
<input type="checkbox"/>	ORDERED TO A THIRD READING			<input type="checkbox"/>	CONCURRENCE			<input type="checkbox"/>	LAY ON TABLE		
<input type="checkbox"/>	PASSAGE			<input type="checkbox"/>	NONCONCURRENCE			<input type="checkbox"/>	RULES SUSPENDED		
<input type="checkbox"/>	IMMEDIATELY MESSAGED			<input type="checkbox"/>	INDEFINITE POSTPONEMENT						
<input checked="" type="checkbox"/>	OTHER <i>Refer to Committee on Excise &amp; Fees</i>										
S.	<input checked="" type="checkbox"/>	A.		<input type="checkbox"/>	SUB. AMEND.		<input type="checkbox"/>	AMEND.			
RES.	<input type="checkbox"/>	JT. RES.		<input checked="" type="checkbox"/>	BILL		<input type="checkbox"/>	ADOPTION		<input type="checkbox"/>	REJECTION
NO. <u>0351</u>	AYE <u>008</u>	NAY <u>090</u>	ABSENT OR NOT VOTING <u>001</u>								
TIME <u>10.47</u>	MONTH <u>04</u> DAY <u>13</u> YEAR <u>1977</u>										
NAME	A	N	N	NAME	A	N	N	NAME	A	N	N
ANDREA, J.	D	Y		HASENOHRL, D.W.	D	N		NORQUIST, J.O.	D	N	
AUSMAN, L.G.	R	N		HAUKE, T.A.	D	N		OLSON, R.A.	R	N	
BARCZAK, G.J.	D	N		HEPNER, G.A.	D	N		OPITZ, D.W.	R	N	
BARRY, J.B.	D	N		JACKAMONIS, E.G.	D	N		OTTE, C.	D	N	
BEAR, P.	D	Y		JOHNSON, G.K.	D	N		PABST, R.E.	D	Y	
BEHNKE, R.	D	N		JOHNSTON, R.	R	N		PLEWA, J.R.	D	N	
BRADLEY, G.R.	R	N		KEDROWSKI, D.R.	D	N		PORTER, C.A.	R	N	
BRIST, S.C.	D	N		KINCAID, L.H.	R	N		POTTER, C.	D	N	
BYERS, F.R.	R	N		KIRBY, M.G.	D	N		QUACKENBUSH, R.L.	R	N	
CLARENBACH, D.E.	D	N		KLUCKA, G.H.	R	N		ROBERTS, V.D.	D	N	
COGGS, M.P.	D	N		LALLENSACK, F.J.	D	N		ROGERS, W.J.	D	N	
CONRADT, E.W.	R	N		LATO, S.J.	D	N		ROONEY, J.F.	D	N	
CZERWINSKI, J.C.	D	Y		LEE, M.	D	N		ROTH, T.A.	R	N	
DANDENEAU, M.	D	N		LEOPOLD, S.R.	D	N		RUTKOWSKI, J.A.	D	N	
DAY, I.J.	D	N		LEWIS, J.R.	R	N		SCHMIDT, E.	R	N	
DE LONG, D.E.	R	N		LEWISON, B.M.	R	N		SCHNEIDER, M.D.	D	N	
DONOGHUE, S.	R	N		LINGREN, R.H.	D	N		SCHRICKER, K.M.	R	N	
DORFF, E.	D	Y		LITSCHER, L.E.	D	N		SHABAZ, J.C.	R	N	
DUEHOLM, H.L.	D	N		LOFTUS, T.A.	D	N		SNYDER, H.G.	R	N	
DUREN, J.	D	N		LOOBY, J.L.	D	N		SOUCIE, K.	D	N	
EARLY, M.	D	N		LORMAN, M.	R	N		SWOBODA, L.J.	D	N	
ELCONIN, M.H.	D	N		LUCKHARDT, E.D.	R	N		TESMER, L.M.	D	N	
ELLIS, M.G.	R	N		MC CLAIN, E.F.	D	N		THOMPSON, I.G.	R	N	
ENGELTEITER, S.	R	N		MC ESSY, E.F.	R	N		TRAVIS, R.S.	R	N	
EVERSON, H.E.	D	N		MATTY, R.P.	R	N		TREGONING, J.E.	R	N	
FERRALL, R.M.	D	N		MEDINGER, J.D.	D	N		TROPMAN, P.J.	D	N	
FISCHER, D.	D	N		MENOS, G.G.	D	N		TUCZYNSKI, P.J.	D	N	
FLINTROP, R.E.	D	N		MERKT, J.L.	R	N		VANDERPERREN, C.J.	D	N	
GERLACH, C.A.	D	N		METZ, S.X.	D	N		WAHNER, J.W.	D	N	
GOODRICH, P.A.	R	N		MILLER, M.M.	D	Y		WARD, W.L.	D	Y	
GOWER, J.C.	R	N		MOHN, L.O.	D	N		WOOD, W.W.	D	Y	
GROSHEK, L.A.	D	N		MOODY, J.P.	D	N		SPEAKER			
GUNDERSON, S.	R	N		MUNTS, M.L.	D	N					
HANSON, T.S.	D	N		MURRAY, T.B.	D	N					

RULES TO REMEMBER: CONDUCT OF DEBATE; RANK ORDER OF MOTIONS

Nearly the entire floor activity of the Legislature is concerned with the 2nd and 3rd readings of proposals, and subsequent consideration of further changes in a proposal made by the other house. All motions and other actions authorized under the rules occur at these stages. Proponents will attempt to advance consideration of the proposal faster than the "only one reading per day" progression contemplated by the rules. Opponents will use all avenues of delay permitted under the rules.

ACTIONS IN ORDER DURING DEBATE. Among the rules most helpful to a new member of the Wisconsin Legislature are those which serve as an inventory of the motions and other actions authorized during debate, and direct the reader to the more specific provisions found in other rules. With regard to the specific detail, there are some differences between the Senate and the Assembly but, on the whole, the procedures in both houses are very similar. Senate Rule 63, the inventory of motions in order during debate, is almost identical to Assembly Rule 61. The Senate rules do not contain an inventory of situations justifying the interruption of the member holding the floor (see Assembly Rule 54), or of the many other actions in order during the consideration of proposals and questions (see Assembly Rule 62), but the specific situations are covered in the Senate rules as well. For the purpose of illustration, we will here set forth the texts of the 3 Assembly Rules:

Assembly Rule 54. WHEN A MEMBER MAY BE INTERRUPTED. Once a member has been recognized and has the floor, the member may speak without interruption unless questions arise which require immediate consideration. Such questions are:

- (1) A question of personal privilege [A.Rule 58].
- (2) Raising a point of order and appeals therefrom [A.Rule 59].
- (3) Raising a question of quorum [A.Rule 30].
- (4) Rising to make a parliamentary inquiry.
- (5) Rising to ask whether the member who has the floor will yield to a proper question.
- (6) Calling for a special order of business [A.Rule 32].

Assembly Rule 61. MOTIONS IN ORDER DURING DEBATE. (1) When a question is under debate, no motion shall be permitted except:

- (a) To adjourn or fix the time to which adjournment is taken [A.Rule 67].
- (b) To adjourn to a fixed time [A.Rule 67].
- (c) To lift the call of the assembly [A.Rules 89 to 91].
- (d) To recess.
- (e) To lay on the table or to take from the table [A.Rule 70].
- (f) To move the previous question [A.Rule 75].
- (g) To postpone to a day or time certain [A.Rule 65].
- (h) To refer to a standing committee [A.Rule 65].
- (i) To refer to a special committee [A.Rules 10 and 65].
- (j) To amend, if the question or proposal is amendable [A.Rules 18, 48 to 51 and 67 (3)].
- (k) To postpone indefinitely, reject, or nonconcur in, a proposal [A.Rule 65].

(2) The motions listed in sub. (1) have precedence in the order in which they are listed. While any given motion is pending, motions of the same or lower precedence are not in order, except that:

- (a) Amendments may be submitted to the chief clerk while other

amendments are under consideration;

(b) Amendments to amendable motions are in order as long as no question of higher precedence is pending; and

(c) Any amendment may be rejected.

(3) If any motion is made while no other question is before the assembly, or is made subject to qualifications not specifically authorized in sub. (1), such motion loses its precedence and becomes a principal motion, subject to the rules that apply to principal motions.

(4) The right of a member to debate and likewise the right to make any motion which is in order shall cease when the "ayes" have been called for, or when the presiding officer has directed the chief clerk to open the roll.

Assembly Rule 62. OTHER ACTIONS IN ORDER DURING CONSIDERATION OF PROPOSALS AND QUESTIONS. In addition to the questions and motions listed in rules 54 (1) and 61 (1), and subject to the limitations imposed by other rules, the following actions are in order while a proposal or question is under consideration:

(1) A call of the assembly [A.Rule 85].

(2) A request for a roll call vote when the roll call vote is not mandatory [A.Rule 78 (3)].

(3) A request by the maker of a pending motion that the motion be withdrawn, subject to the limitation imposed by rule 72 (7) with regard to withdrawing a pending motion for reconsideration.

(4) A request to be excused from voting for special cause [A.Rule 79].

(5) A request for a leave of absence [A.Rule 28].

INDEFINITE POSTPONEMENT. Strange as it may seem, the Wisconsin Legislature has never "killed" a bill. Bills die, of course, but in the formal language of legislative procedure the cause has been "indefinite postponement", or "nonconcurrence" or, sometimes, "no further action" because the Legislature ran out of time.

Assembly Rule 97 is a very long rule, consisting of 94 subsections each defining one of the major terms of the legislative vocabulary. The Senate rules do not contain a similar set of definitions, but the definitions shown in Assembly Rule 97 in most cases directly also explain the Senate process, and for the rest the differences are clearly apparent from the context. Assembly Rule 97 explains 3 of the ways in which proposals may die. A complete catalog of "adverse and final disposition" is found in Assembly Rule 71. In the Senate, "adverse disposition" of proposals is mentioned in Senate Rules 33 (2), 41 (2), 55, 63 (1) (n), 66 and 85 (1).

ASSEMBLY RULE 97. MAJOR TERMS DEFINED. (33) INDEFINITE POSTPONEMENT: an action by which a bill is adversely and finally disposed of in the house of origin for the biennial session of the legislature.

(49) NONCONCURRENCE: the action by which one house refuses to agree to a proposal or action which the other house has approved.

(69) REJECTION: an action by which a) a simple resolution, or a joint resolution in the house of origin, is adversely and finally disposed of for the biennial session of the legislature, or b) an amendment to a proposal is adversely and finally disposed of for that proposal.

ASSEMBLY RULE 71. ADVERSE AND FINAL DISPOSITION. (1) Unless recon- sidered . . . ., a proposal or, where applicable, an amendment as it affects the proposal, is adversely and finally disposed of for the biennial session of the legislature by any of the following results:

- (a) Indefinite postponement (assembly bills).
  - (b) Rejection (assembly amendments and assembly resolutions and joint resolutions).
  - (c) Nonconcurrence (senate bills and joint resolutions).
  - (d) Failure to be ordered engrossed (assembly bills).
  - (e) Failure to be ordered to a 3rd reading (senate bills).
  - (f) Failure of passage (assembly bills).
  - (g) Failure of concurrence (senate bills and joint resolutions).
  - (h) Sustaining the objections of the governor.
- (2) Once a proposal originating in the assembly has been adversely disposed of, another proposal originating in the assembly and identical or substantially similar in nature shall not be considered by the assembly in that biennial session.

MOTION TO TABLE. The motion to table a proposal, under the rules of the assembly, has "the effect of disposing of a matter temporarily, and such proposal may be taken from the table at any time" by majority vote of the members present and constituting a quorum. The motion to table can be applied only to business currently before the Assembly, but may not be used to dispose of certain motions. For further detail, see Assembly Rule 70.

In the Senate, the motion to "lay on the table" has the same effect only with regard to amendments and motions, but not with regard to bills, joint resolutions, resolutions or appointments. This is so because the Senate distinguishes between the formal procedure of laying a proposal on the table under Senate Rule 65, and the informal procedure of "laying aside temporarily" motions, amendments to proposals, or other business not consisting of bills, resolutions or appointments.

Under Senate Rule 65 (2), when a motion to lay on the table is successful and pertains to a bill, joint resolution or resolution, or to a Governor's nomination for appointment with the advice and consent of the Senate, the matter tabled is returned to the Committee on Senate Organization for calendar scheduling. In other words, a successful Senate motion to table a proposal removes that proposal from the control of the senate, and places it in the control of the Committee on Senate Organization. The consequence is that the proposal cannot be brought back to the floor on a motion approved by simple majority. Instead, the proposal can return to the floor for further consideration in one of 3 ways: a) the proposal can be referred to the calendar by the Committee on Senate Organization; b) the proposal can by motion [authorized under S.Rule 65 (3)] and majority vote be referred to a future calendar; or c) the proposal can be brought back for immediate further action by a 2/3 vote or unanimous consent.

A WORD ABOUT VOTING. There are 4 basic ways in which a Legislature might vote in order to ascertain the will of the majority.

Secret ballot. This method is not used in Wisconsin. Using a secret ballot in the Legislature would violate the spirit of the "open meetings law" (see Sections 19.81 to 19.98 of the Statutes), and would run counter to the many instructions in the Wisconsin Constitution which require the doors of the Legislature to be open to the public (Section 10 of Article IV) and provide that spe-

cific questions be decided by a roll call vote, with the "ayes" and "noes" entered on the journal.

Division of the house. Although Senate Rule 71 (2) still says that when the outcome of a voice vote is doubtful the issue may be decided by a division of the house, in practice this method of voting is not used. In a division, the issue would be decided by a show of hands, or standing up, and counting. Division could provide an accurate numeric outcome without recording how the individual voted. However, it has fallen into disuse because of the confusion which it creates, and because an actual roll call is usually faster.

Voice vote (viva voce). This is the usual method used in the Wisconsin Legislature for deciding the less controversial questions. The presiding officer calls for the "ayes" and "noes". In most cases, the response of one side clearly outweighs the other and the Chair announces the outcome: "The 'ayes' have it"; or, "the 'noes' have it". Sometimes, the Chair may feel that the apparent result of a voice vote does not reflect the will of the majority. In this case, the Chair might first announce: "The ayes appear to have it"; any member of the house might then request (and with the concurrence of 1/6 of those present obtain) a roll call on the question before the Chair announces the outcome of the voice vote. If the Chair's tentative announcement does not elicit a response from the floor, the question is deemed decided. The Chair announces: "The 'ayes' have it." In both houses, the rules permit the Chair to order a roll call for any vote; thus, when the result of a voice vote is really unclear, the Chair will often say: "The Chair is in doubt. The Clerk will call the roll."

Roll call vote. All bills dealing with taxes or public finances require a roll call vote on passage or concurrence. This requirement is imposed by Section 8 of Article VIII of the Wisconsin Constitution. All issues which can be decided only by a 2/3 vote, or by a qualified majority (a majority of all the members elected) require a roll call vote; for a listing, see Joint Rule 12.

# Whey Liquor Break Gains

Sentinel Madison Bureau

Madison, Wis. — A tax break for liquor produced from whey, the cheese factory byproduct, or brewing wastes was approved by the State Assembly Wednesday and sent to the Senate.

The 95 to 3 vote came despite a statement that federal authorities view sale of such alcohol as unlikely.

The bill would reduce from \$2.60 to \$1 per wine gallon the tax on intoxicating liquor that would be produced from whey or brewing wastes.

State Rep. Eugene Dorff (D-Kenosha) failed in his attempt to have the bill referred to the Excise and Fees Committee. He argued that there are unanswered questions about federal taxing policies and about the kinds of products for which the alcohol could be used.

"I might point out that there are wineries in this state that don't have a special tax," said Dorff.

A fiscal estimate said federal authorities had rejected a request to sell liquor produced from brewing wastes. It also said no liquor now is being produced from whey and that federal authorities view it as unlikely that sale of such liquor would be permitted.

Supporters of the bill argued that cheesemakers only have been able to find a use for 5 billion pounds of the 13.5 billion pounds of whey produced annually in Wisconsin.

(A newspaper discussion of the 2nd and 3rd reading of 1977 AB-351.)

MILWAUKEE SENTINEL

STATE NEWS

In the Senate, all roll call votes are taken by a voice vote. The Chief Clerk calls the roll; the members reply "aye" (or "yes") or "no" and this is entered on a tally sheet; there may be some switching (the Chair asks: "Has everyone been recorded as they wish?"); and the Chair announces the result. The Senate strictly abides by the rule that a Senator's vote is counted only if the Senator is in the seat assigned to her, or him, when the roll is called.

In the Assembly, the roll is actually called by the Chief Clerk only when a "call of the house" has been ordered to bring in the absent members, and in the election of officers on opening day (usually, the voting machine has not been available for use on that day because members had yet to be assigned permanent seats). All other roll call votes in the Assembly are taken with the help of a voting machine:

Assembly Rule 78 (4) When a roll call vote has been ordered and the voting machine is available, the machine shall be used to record the "ayes" and "noes". When a roll call vote has been ordered and the voting machine is not available, the chief clerk shall call and tally the roll. On all roll call votes, the record produced by the voting machine or the chief clerk's tally shall be considered official and final.

The Wisconsin Assembly, in 1917, became the first house of a state Legislature to install a machine for roll call voting. Today's machine still uses voting buttons on the members' desks similar to those first installed, and the original green-red display panels, but its internal workings were recently refurbished with modern electronic parts. When a roll call has been ordered in the Assembly, the Speaker directs the Chief Clerk to "open the roll". This activates the voting buttons on the members' desks. As each member votes, a green or red light next to the member's name lights up on the display panels reflecting the member's choice. Voting machines, however, are not infallible, and the Speaker will always pose the question; "Has everyone been recorded as they wish?" before he directs the Chief Clerk to "close the roll" so that the machine can tally the result. As soon as the roll is closed, the machine shows the numeric outcome on the display panels and prints out a permanent record.

An Assembly rule of long standing [today numbered A.Rule 78 (5)] proclaims: "In any roll call vote, a member absent from his or her assigned seat shall be considered not voting". The reason for the rule is to permit raising a point of order that an absent member is shown as voting. In most cases, it will be found that the member was not "absent" but, rather, temporarily had to leave his or her seat.

Members need to receive phone calls from constituents in the small office assigned to the Sergeant at Arms in a back corner of the Assembly Chamber; members confer with lobbyists and others in the Assembly Chamber's alcove or in the Assembly Parlor; etc. To prevent the confusion which might result if every member had to run back to the seat for every roll call, members frequently instruct their seat neighbors how to vote for them if a roll call occurs before they can return. The practice is self-policing: as a body, the Assembly knows which members are actually present (though temporarily absent), and any vote cast in a member's name but contrary to his or her wishes would have serious repercussions.

FROM 2ND READING THE 3RD READING:

It seems to be a basic rule of legislative procedure that no bill is to be given 2 readings on the same day. In many states this procedure is, in fact, embedded in the state constitution. In Wisconsin, the rule is not required by the Constitution, but has been voluntarily established by the Legislature; see Senate Rule 35 and Assembly Rules 42 and 43.

Few bills are ever in a position to receive the first and the 2nd reading on the same day. The first reading merely announces that the bill exists. The announcement made, the bill is sent off to a standing committee for review. Only in very unusual circumstances will the standing committee be ready, on the same day, to make its report to the house so that the bill can be returned for floor action.

The transition from 2nd reading to 3rd reading is different. Here, the rule against two readings on the same day creates a deliberate delay. On 2nd reading, the Assembly reviewed the amendments and, by the selective adoption and rejection of various amendments, improved the bill overall. Few amendments can ever be discussed strictly on their own, without reference to the bill itself. But, on the whole, the debate on 2nd reading is limited to the specific issues touched by the amendments, and does not reach the merits of the bill itself.

The discussion of the bill itself comes on 3rd reading. Because the amendments adopted at the 2nd reading stage may have introduced significant changes into the proposal, the legislators now need time to re-study the bill and to understand its implications in the latest version, with the amendments incorporated into the original text.

When it appeared, on April 13, 1977, that no additional amendments to 1977 AB-351 would be offered, Speaker Jackamonis stated the question by which the 2nd reading stage comes to an end:

"Shall Assembly Bill 351 be ordered engrossed and read a 3rd time?"

The motion was carried on a voice vote. The preceding roll call -- the Assembly refused, 90, to 8, to send the bill to a standing committee for further study -- had indicated strong support for passage. The amendment adopted (calculation of metric equivalents for the tax table) had been minor. Thus, in the case of 1977 AB-351 the delay for additional study seemed unnecessary. Rep. Wahner, the Assembly Majority Leader, therefore requested, and received, "unanimous consent" that the rules be suspended and that the bill be given its 3rd reading immediately.

"Unanimous consent", in which not a single member objects to the request, could have been refused. There were, after all, at least 8 members (as shown by the last roll call) who seemed to want further study. Had this occurred, Rep. Wahner might then have "moved that the rules be suspended". This procedure, which requires the affirmative votes of 2/3 of the members present and constituting a quorum, is authorized in the rules themselves; see Assembly Rule 93, Senate Rule 91, and Joint Rule 96 (2).

1977 Assembly Bill 351 was a bill dealing with a tax (the excise tax on alcohol). It had an impact on public finances (even though the fiscal note deemed the impact negligible). Bills of this type require a recorded roll call vote on "passage" in the house of origin, and a like vote on "concurrence" in the 2nd house. This requirement is imposed by Section 8 of Article VIII of the

Wisconsin Constitution, and is further explained in Joint Rule 11 (2).

It is likely (individual speeches are usually not recorded in the journal) that the Speaker "recognized" (gave the floor to) Rep. Day, the bill's first author, for a brief explanation of the bill. Since the bill dealt with a single issue, the explanation would have been very short. Other members -- pro or con -- may have spoken also. As soon as it seemed that no other representative wanted to say anything about the bill, the Speaker stated the question on passage, and directed the Chief Clerk to open the roll. The Assembly vote on the passage of 1977 Assembly Bill 351 was 95 votes for ("ayes"), 3 votes against ("noes"), and one member absent.

Absent members cannot vote. However, the rules of both houses permit absent members, on their return, to file a statement with the Chief Clerk showing how they would have voted had they been present; Assembly Rule 78 (7), Senate Rule 74. The recording of the position of an absent member, at the member's direction and after the vote was taken, is merely a courtesy to the absent member; it cannot change the outcome of the roll call vote.

The Assembly -- but not, the Senate -- also permits a representative who will be absent at a future time to "pair" with another representative, on the opposite side of the issue; see Assembly Rule 81. When a pair has been filed with the Chief Clerk the 2nd representative (who may be present when the vote is taken) cannot vote, but if the first representative returns before the vote is taken, the two members signing the pair may jointly request to withdraw the pair. Like the recording of "how the member would have voted if present", the "pair" also merely records the position on the issue, but is not counted among the votes cast.

#### JOURNAL OF THE ASSEMBLY [April 13, 1977]

Representative Wahner asked unanimous consent that the rules be suspended and that **Assembly Bill 351** be given a third reading. Granted.

The question was: **Assembly Bill 351** having been read three times, shall the bill pass?

The roll was taken.

The result follows:

Ayes -- Andrea, Ausman, Barczak, Barry, Bear, Behnke, Bradley, Brist, Byers, Clarenbach, Coggs, Conradt, Czerwinski, Dandeneau, Day, DeLong, Donoghue, Dueholm, Duren, Early, Elconin, Ellis, Engeleiter, Everson, Ferrall, Fischer, Flintrop, Gerlach, Goodrich, Gower, Groshek, Gunderson, Hanson, Hasenohrl, Hauke, Hephner, Johnson, Johnston, Kedrowski, Kincaid, Kirby, Klicka, Lallensack, Lato, Lee, Leopold, Lewis, Lewison, Lingren, Litscher, Loftus, Looby, Lorman, Luckhardt, McEssy, Matty, Medinger, Menos, Merkt, Metz, Mohn, Moody, Munts, Murray, Norquist, Olson, Opitz, Otte, Pabst, Plewa, Porter, Potter, Quackenbush, Roberts, Rogers, Rooney, Roth, Rutkowski, Schmidt, Schneider, Schricker, Shabaz, Snyder, Soucie, Swoboda, Tesmer, Thompson, Travis, Tregoning, Tropman, Tuczynski, Vanderperren, Wahner, Ward and Mr. Speaker -- 95.

Noes -- Dorff, Miller and Wood -- 3.

Absent or not voting -- McClain -- 1.

Motion carried.

Representative Wahner asked unanimous consent that the rules be suspended and that **Assembly Bill 351** be immediately messaged to the senate. Granted.

THE MOTION FOR RECONSIDERATION:

In the ordinary course of legislative business, after 2nd reading the bill goes to the calendar next printed -- which is the calendar for the day after tomorrow because the calendar for tomorrow was distributed today. This creates a delay of at least one day. Similarly, after the bill has successfully come through the vote on the question of passage, it does not immediately, or on the next day, go to the other house. Rather, there is a delay of one legislative business day.

The reason for the built-in delay is the "motion for reconsideration" (see Senate Rule 67 and Assembly Rule 72). Any member who voted with the prevailing side may move that the action on the question be reconsidered, and may offer this motion either immediately or under the proper order of business on the next legislative day.

The reason for allowing a motion for reconsideration is straightforward: it permits the correction of mistakes that were not immediately apparent while the issue was under consideration. The actual use of the motion for reconsideration is somewhat more complicated. Obvious supporters of an issue about to lose (and obvious opponents of an issue about to win) are sometimes observed switching their votes at the last moment. In voting with the prevailing side, they have the right to enter a motion for reconsideration. Thus, the motion for reconsideration becomes a tactical device to gain further consideration of a proposition narrowly lost on the present day. The hope is that, with additional information and persuasion, the proposition may yet be successful.

Assembly Rule 72. MOTION TO RECONSIDER. A motion to reconsider a question may be made by any member who voted with or was paired with the majority which carried the question. In the case of a tie vote or voice vote, any member may move reconsideration. No member shall be permitted to make a motion for reconsideration unless the member has voted or paired on the question.

(1) This motion shall be made on the same legislative day immediately following the vote or on the 8th order of the same or the next succeeding legislative day on which any roll call is taken.

(2) Consideration of the motion for reconsideration shall be laid over and placed on the next printed calendar which is that for the 2nd legislative day.

(3) A motion to reconsider having been put and lost shall not be renewed, but subsequent motions for reconsideration shall be in order if the bill reaches a further stage.

(4) No motion to reconsider shall be proper until the final question at a given stage of the progress of the proposal has been put and voted on.

(5) No motion to reconsider the action on an amendment shall be considered unless the final action on the proposal at that stage has been reconsidered, returning the proposal to the amendable stage.

(a) A motion to reconsider the action on an amendment may only be entered immediately after the action on the amendment or immediately after the final vote on the proposal at the 2nd reading stage, or on the legislative day following such action or vote.

(b) Reconsideration of the action on amendments shall follow the sequence established in rule 51 for consideration of amendments.

(6) The adoption by both houses of a joint resolution returning a proposal to the assembly for further action returns the proposal to that stage at which it requires further action. The adoption of a motion

for reconsideration shall not be required to reach that stage.

(7) Once a motion for reconsideration has been entered, such motion may only be withdrawn by the member who made the motion within the time limit when such motion by another member would still be in order.

(8) Debate shall be allowed on a motion to reconsider only when the question it is proposed to reconsider is debatable. Where debate upon a motion to reconsider is in order, no member shall speak more than once nor for a longer period than 3 minutes.

(9) Action on proposals returned without the approval of the governor shall in no case be subject to a motion for reconsideration.

(10) A vote on a committee of conference report is not subject to a motion for reconsideration.

(11) When a motion for reconsideration has been entered with the purpose of further amending the proposal, the maker of the motion may deposit one new amendment to that proposal with the chief clerk for printing.

When the time for entering a motion for reconsideration expires without such a motion having been offered, or when the attempt to reconsider the prior action fails, the proposal to which the motion pertained advances to its next stage. If the next stage is "3rd reading", the proposal has already been entered on the calendar; if the next step is messaging to the other house, the proposal is so messaged.

#### MESSAGING THE PROPOSAL:

In the case of 1977 AB-351, there was no reason for a motion for reconsideration. The vote on passage had carried 95 to 3. Immediately after Speaker Jackamonis announced the numeric outcome of the roll call vote the Majority Leader, Rep. Wahner, asked unanimous consent that the rules be suspended (i.e. the rule ordinarily delaying messaging until after the order of business for the entering of motions on the next business day) and that the bill be immediately messaged to the Senate. There was no objection, and the unanimous consent request prevailed. The Speaker announced: "The bill is in the Senate".

Quite obviously, 1977 AB-351 was not in the Senate -- even those Representatives who sit in the very back of the Assembly Chamber could see that it was still on the Chief Clerk's desk. Why, then, the strange announcement?

What the Speaker said merely serves to clarify the legalities of the situation: as soon as the house of origin has completed every possible action and passed a proposal, that proposal is no longer under its control but resides in the other house. Only a joint resolution, agreed to by both houses, can bring it back to the house of origin for additional action (see Joint Rule 6).

PRINTING OF ENGROSSED COPIES:

In the Wisconsin Legislature, all bills and resolutions are sent to the printer, and distributed, immediately following introduction. All amendments and substitute amendments are treated in the same manner. To facilitate consideration of a proposal -- when later information indicates that further changes are needed -- the author of the proposal, or the committee which considered the proposal, will often bring in a substitute amendment so that the Legislature can vote on a "clean" text. Wisconsin does not print a revised text at the end of every business day on which amendments have been adopted. The reason is that other amendments may have already been prepared. Each amendment is keyed to the document amended by page and line numbers. When changes are made in the physical layout of the base document, these amendments might no longer fit.

Traditionally, over 60% of Wisconsin bills were passed, without further changes, either as introduced or in the form of a clean substitute. That figure is no longer true. More and more, recent Wisconsin Legislatures have developed the habit of making minor last minute changes from the floor. More and more, also, recent Wisconsin Legislatures have passed bills to which a great number of amendments have been attached. The more complicated the bill, the more likely the adoption of amendments. In some cases, this has made it rather difficult for the other house to follow the content of the bill.

To overcome the difficulty the 1977 Legislature formally established a procedure -- see Joint Rule 63 -- authorizing the Chief Clerk of either house to order the printing of an "engrossed" measure, with the amendments adopted in the house of origin incorporated into the text. When an engrossed measure is printed, all subsequent amendments to the measure are keyed to the page and line numbers of the engrossed text. In the 1977 Session, 27 bills were printed engrossed. In addition, at least one substitute amendment adopted in the house of origin with numerous amendments, and one "simple" amendment to the Budget Review Bill adopted in the 2nd house after numerous changes in the amendment itself, were also engrossed and printed for distribution.

Whenever a measure is ordered printed engrossed, it is returned to the Legislative Reference Bureau for redrafting in agreement with the official record entered on the bill jacket, based on the official copies contained in the bill jacket. The same attorneys who drafted the proposal initially review the current text to assure that nothing was overlooked in the rush of amending. If the amendments adopted require further changes in the bill for proper implementation, LRB discusses the difficulties with the authors of the proposal and, if necessary, provides a correctional amendment for consideration in the other house. If time permits, LRB also writes a revised analysis so that it can be printed with the engrossed measure.

THE PRESS RELEASE:

Big city newspapers sometimes editorialize against "government news hand-outs and press releases". With several staffers in residence at the capital to cover statehouse and associated government activities, they probably do not need this help. Small-town weeklies, and even the dailies of some mid-sized cities, frequently are grateful for the newsletters and press release provided by local legislators -- particularly, when the legislators are able to provide factual information on recent legislative activities of local interest. An example is the press release issued by Rep. Potter following Assembly passage of 1977 AB-351. Rep. Potter considered the whey alcohol bill of significant interest to the dairy farmers and cheese makers in his district. The SHEBOYGAN PRESS (4/16/77) agreed, and printed Potter's text almost without editing:

PRESS RELEASE

From The Office Of:  
State Representative Calvin Potter  
State Capitol  
Madison, Wisconsin 53702

April 16, 1977  
Saturday

(MADISON)-- The Assembly

passed a bill by a 95-1 vote lowering the tax on alcohol produced from cheese whey and brewing wastes or by pollution control facilities. The bill will now go to the Senate.

-2-

"Under the Environmental Protection Agency, it was discovered that cheese whey and barley by-product is derived from products could be used to make drinkable alcohol and yeast. (D-Kohler). "This bill makes it economically feasible to convert whey into alcohol,"

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# Potter Lauds Lower Tax On Alcohol Made From Whey

MADISON — State Rep. Calvin Potter (D-Kohler) has endorsed a bill passed by the Assembly which lowers the tax on alcohol produced from cheese whey and brewing wastes or by pollution control facilities. The bill passed the Assembly on a 95-1 vote and will now go to the Senate. Under the current law there is a tax of \$2.60 per wine gallon on liquor. This bill reduces the tax to a dollar if the alcohol contained is derived from whey. "There is over 33 billion pounds of liquid cheese whey being produced by the cheese industry in the United States," said Potter. "Wisconsin being the nation's leading cheese producing state, alone produces almost 13.5 billion pounds of this cheese-making by-product.

But the state can only use about 500 million pounds. "Therefore a tremendous amount of whey is being thrown away. Up until a few years ago whey was considered a waste material. To get rid of it, it was just simply dumped out into the fields or into sewer lines," explained the Sheboygan County Democrat. "This poses an environmental problem because new pollution laws prohibit the dumping." "Cheesemakers are forced into spending millions of dollars for equipment to convert whey into useful materials. "Costs to convert the whey averages about six cents a pound. At the present market price it sells for about four cents a pound," said Potter. "The dairy farmer suffers by lower milk checks and the consumers have to pay higher cheese prices."

Through an investigation partially funded by the Environmental Protection Agency, it was discovered that cheese whey and barley by-products could be used to make drinkable alcohol and yeast. "This bill makes it economically feasible to convert whey into alcohol," said Potter. "The end product would make commercial items such as vinegar, yeast and possibly an alcohol that would be mixed to become a liqueur. "It may also prove to be a fuel additive to help alleviate the energy crisis," added Potter. "By lowering the tax to a dollar distilleries would be inspired to start producing this alcohol which would result in more revenue for Wisconsin, more jobs and the elimination of a major pollution problem for our state," said Potter.

ACTION BY THE OTHER HOUSE.

Essentially, there is little difference in the treatment of a bill in the 2nd house as compared to its treatment in the house of origin. Statistically, bills are less likely to receive a public hearing by a standing committee in the 2nd house; however, 1977 Assembly Bill 351 did receive a public hearing before

the Senate Committee on Agriculture, Aging and Labor. In the 2nd house, the bill is "received" on a message from the house of origin (rather than "introduced") and, ultimately, "concurred in" rather than "passed".

JOURNAL OF THE SENATE [April 14, 1977]

MESSAGE FROM THE ASSEMBLY

By Everett E. Bolle, chief clerk.

Mr. President:

I am directed to inform you that the assembly has passed and asks concurrence in:

Assembly Bill 176  
 Assembly Bill 310  
 Assembly Bill 354  
 Assembly Bill 358  
 Assembly Bill 150  
 Assembly Bill 186  
 Assembly Bill 324  
 Assembly Bill 198  
 Assembly Bill 254  
 Assembly Bill 351

Concurred in:

Senate amendment 1 to Assembly Bill 77  
 Senate amendment 1 to Assembly Bill 79  
 Senate amendment 1 to Assembly Bill 86

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1977 AB-351 was received in the Senate on April 14, 1977. By its title, "Relating to a tax on liquor . . .", the presiding officer initially referred the bill to the Senate Committee on Governmental and Veterans' Affairs to which tax measures are normally referred. However, Senator Cullen pointed out that the primary thrust of this bill was "agriculture" rather than "taxation", and his unanimous consent request to move the bill to the agriculture committee was granted without objection.

JOURNAL OF THE SENATE [April 14, 1977]

Read first time and referred to the committee on Natural Resources and Tourism.

Assembly Bill 324

Relating to bonds required for . . . and McClain,

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

Assembly Bill 351

Relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities.

By Representatives Day, Jackamonis, Hasenohrl, Lallensack, Potter, Byers, Vanderperren, Litscher, Groshek, Mohn, Donoghue, Schricker, Swoboda, Luckhardt, McClain, Conradt, Bradley, Porter, Wahner and Schmidt, cosponsored by Senators Morrison, Radosevich, Maurer, Berger, Cullen, Bablitch, Chilsen, Harnisch, Frank and Krueger.

Read first time and referred to the committee on Governmental and Veterans' Affairs.

By request of Senator Cullen, with unanimous consent, Assembly Bill 351 was withdrawn from the committee on Governmental and Veterans' Affairs and referred to the committee on Agriculture, Aging and Labor.

By request of Senator Cullen, with unanimous consent, Assembly Bill 186 was withdrawn from the committee on Natural Resources and Tourism and referred to the committee on Senate Organization.

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The Senate Committee on Agriculture, Aging and Labor held its public hearing on 1977 AB-351 on May 31. Immediately upon completing its hearing schedule for that day, the committee went into executive session to vote on its recommendations. There had been only one "appearance" against the bill. The committee, by the unanimous vote of its 7 members, recommended the bill for concurrence.

The appearance against the bill by J.K. Leidiger of the Department of Revenue most likely had nothing to do with the merits of the proposal. In preparing a fiscal estimate, any state agency is required (see Joint Rule 43) to "provide as reliable a dollar estimate as possible".

The Department of Revenue had compiled a revised estimate of AB-351's long range fiscal implications indicating that 25,000 gallons/month of whey alcohol produced at the reduced tax rate proposed in the bill would annually yield \$480,000 less revenue than the same quantity of alcohol taxed at the full rate. This estimate belabored the obvious -- it did not, however,

address the main issue: absent the preferential tax rate, would it be economically feasible to produce any whey alcohol at all?

FISCAL ESTIMATE AD-MBA-23 (1/77)		<input type="checkbox"/> ORIGINAL <input type="checkbox"/> CORRECTED	<input type="checkbox"/> UPDATED <input checked="" type="checkbox"/> SUPPLEMENTAL	Sen Org. 1977 Session
If there is a state or local fiscal effect, attach worksheet.				LHB or Bill No. AB 351
Subject Special Tax Schedule for Liquor Produced from Brewing Wastes, etc.				Amendment No. if Applicable
Fiscal Effect				<input type="checkbox"/> Increase Costs -- May Be Possible to Attach Worksheet
State: <input type="checkbox"/> Increase/Decrease Existing Appropriations				
Please revise Long-Range Section to read as follows:				
Long-Range Fiscal Implications Should the policy on brewing waste alcohol be modified--a conceivable possibility--current production levels of 25,000 gallons/month at the only active manufacturer could result in annual revenues of \$300,000. This is \$480,000 less than would be raised if the standard \$2.60/gallon liquor tax rate were applied.				
Agency	Revenue	Authorized Representative Kanae Lipson		Date 5/31/77

JOURNAL OF THE SENATE [June 2, 1977]

Assembly Bill 351

Relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities.

Concurrence:

Ayes, 7 -- Senators Cullen, Radosevich, Harnisch, Morrison, Van Sistine, Chilsen and McCallum;  
Noes, 0 -- None.

TIM CULLEN  
Chairman

Senator Tim Cullen, as chairman, submitted the committee's report to the Senate on June 2. Under Senate Rule 18 (1), "daily calendar", this placed the bill automatically in the Committee on Senate Organization for calendar scheduling. 1977 Assembly Bill 351 was scheduled for Senate action on June 7.

Because no amendments were offered AB-351 was, immediately following its "2nd reading", ordered to the "3rd reading". As in the Assembly, all "readings" of a bill in the Senate are by title (relating clause) only. At this point, the action would have stopped under Senate Rule 35 which requires the 3 readings of a bill each to occur on different days. However, in the Senate it is standard practice -- except for bills of considerable controversy -- to complete final action on a proposal on the same day. The Majority Leader, Sen. Bablitch, requested and received unanimous consent to consider AB-351 for final action

right away. The bill was given its 3rd reading. The Senate President pro tempore, Sen. Risser, was presiding; he ordered a roll call vote because the bill had a fiscal effect, and Chief Clerk Schneider called the roll. Of the 31 Senators present, 26 voted for "concurrence" and 5 voted against.

**JOURNAL OF THE SENATE [June 7, 1977]**

**Assembly Bill 290**

Read a third time.

The ayes and noes were required and the vote was: ayes, 30; noes, 0; absent or not voting, 3; as follows:

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

Noes -- None.

Absent or not voting -- Senators Goyke, McCallum and Thompson -- 3.

So the bill was concurred in.

**Assembly Bill 351**

Relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities.

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 351**

Read a third time.

The ayes and noes were required and the vote was: ayes, 26; noes, 5; absent or not voting, 2; as follows:

Ayes -- Senators Adelman, Bablitch, Berger, Bidwell, Chilsen, Cullen, Frank, Goyke, Harnisch, Keppler, Krueger, Lasee, Lorge, McKenna, Maurer, Morrison, Murphy, Offner, Parys, Peloquin, Radosevich, Risser, Sensenbrenner, Swan, Theno and Van Sistine -- 26.

Noes -- Senators Braun, Dorman, Flynn, Kleczka and Petri -- 5.

Absent or not voting -- Senators McCallum and Thompson -- 2.

So the bill was concurred in.

By request of Senator Bablitch, with unanimous consent, all actions were ordered immediately messaged.

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

The vote on AB-351 completed the Senate calendar pending for that day. Sen. Bablitch requested unanimous consent "that all bills on which the Senate has taken final action and requiring messaging to the Assembly be messaged immediately" (without waiting for the expiration of the time for entering a motion for reconsideration under Senate Rule 67). Unanimous consent was granted. 1977 Assembly Bill 351, "relating to a tax on liquor produced from whey and brewing wastes or by pollution control facilities", was back in the Assembly to be enrolled in preparation of its submission to the Governor for review and approval or veto.

COMPROMISING THE DIFFERENCES BETWEEN THE 2 HOUSES:

The way to passage and concurrence is, in many cases, not quite as easy as might be indicated by the example of the whey alcohol bill. Frequently, the 2 houses will agree in principle that a proposal should become law, and yet differ substantially on the detailed provisions. Parliamentary practice has developed procedures for compromising the differences between the 2 houses.

In the simplest case, the differences between the 2 houses can be compromised by amendment. For instance, an Assembly bill might be amended in the Senate. The Assembly now has 3 choices:

- (1) It can concur in the Senate amendment, in which case the bill is ready to be enrolled for presentation to the Governor; or
- (2) It can modify the Senate amendment by an Assembly amendment to the amendment, in which case the future of the proposal is now up to the Senate; or
- (3) It can fail to concur in the Senate amendment, in which case the proposal is dead for the session unless the 2 houses agree to convene a 6-member "committee of conference" under Joint Rule 3.

**SUCCESSIVE AMENDMENTS.** Narrowing the differences between the 2 houses by successive concurrences with amendment requires further explanation. Ordinarily, the rules of both houses [Assembly Rule 48 (2); Senate Rule 51] prohibit "amendments in the 3rd degree" so as to prevent confusion. An amendment to a bill, or an amendment to a substitute amendment for the bill, is an amendment in the first degree. In the house in which such an amendment is offered, it is permissible to perfect the initial amendment by an amendment to the amendment; this is an amendment in the 2nd degree. However, if such an amendment to the amendment is still faulty, experience has shown that it is less confusing to abandon the faulty amendment and, instead, to consider a clean version of it as a new amendment to the amendment. The rules prohibit consideration of an amendment, to the amendment to the amendment, to the bill or substitute amendment (an amendment in the 3rd degree).

The situation is different, however, when the house in which the bill originated considers an amendment to amend an amendment offered and adopted in the 2nd house. In this case, both houses have already agreed to (concurred in) most of the provisions of the bill. The only point of contention -- which thus takes on the character of a main proposition -- is the issue covered by the amendment. It must be remembered that the rules of germaneness [Assembly Rule 50 (5); Senate Rule 50 (4)] require an amendment to an amendment to be germane not only to the bill itself (which may cover multiple issues) but also to the amendment itself (which covers only a specific issue area), and that any amendment which substantially expands the scope of an issue is considered not germane. Consequently, when the house of origin amends an amendment adopted in the 2nd house, and then concurs in the amendment by the other house as amended, the procedure can only serve to narrow the area of disagreement between the two houses. Occasionally, this process has been used successfully to bring the 2 houses into agreement without the delay of going through the conference committee process.

A recent example of the successful use of this approach was the passage, in 1978, of the "budget review bill" of the 1977 Legislature (AB-1220):

The Assembly adopted A.Sub.Amdt. 1 to 1977 AB-1220, as affected by A.Amdt. 261. Technically, every bill has been "engrossed" before it reaches the 2nd house; thus, the Senate had before it a single document consisting of Assembly Bill 1220 "as shown by A.Sub.Amdt. 1" and as affected by A.Amdt. 261 thereto.

The Senate concurred in the bill subject to concurrence in the following Senate amendments: S.Amt. 1 (as aff. by Amdt. 7 thereto) and S.Amt. 49 (as aff. by Amdts. 2 and 4 thereto).

The Assembly based its further discussion on S.Amt. 1, incorporating its version of the proposition contained in S.Amt. 49 into its amendment to S.Amt. 1 so that S.Amt. 49, as such, was no longer a part of the process (it nonconcurred in S.Amt. 49). The Assembly adopted:

A.Amdt. 17 to S.Amt. 1

The Senate, by "receding from its position on" S.Amt. 49, agreed with the Assembly that the issue covered by that amendment was properly incorporated in the current status of S.Amt. 1. The Senate then concurred in A.Amdt. 17 as amended by:

Senate Amendment 1 to A.Amdt. 17 to S.Amt. 1

The Assembly concurred in this Senate amendment without further change. Consequently, the bill was now ready to be enrolled for submission to the Governor.

Assembly Amendment 17 had been offered on March 30, 1978, one day prior to the scheduled recess of the spring-1978 floorperiod. By using successive amend-

ments to reduce the differences between the 2 houses, the Legislature had accomplished an impossible task: the most controversial and most complicated bill of 1978, the budget review bill, had been thoroughly reviewed, discussed in caucus and on the floor, perfected and agreed to by both houses, in only 2 days.

1977

STATE OF WISCONSIN

LRB-13842/3  
ALL:dh

SENATE AMENDMENT 1,  
TO ASSEMBLY AMENDMENT 17,  
TO SENATE AMENDMENT 1,  
TO 1977 ASSEMBLY BILL 1220

March 31; 1978 - Offered by Senators DORMAN, KLECZKA, MAURER, McKENNA, MORRISON, RISSER and BABLITCH.

1 Amend the assembly amendment as follows:

2 1. On page 1, delete line 4.

3 2. On page 1, after line 4, insert:

12 ~~(3) No candidate re-~~  
13 official or other officer or employe of the state may solicit or  
14 accept anything of pecuniary value from a lobbyist or principal, or  
15 ~~officer--or--employe--of--an--agency--whose--name--is--on--file--with--the~~  
16 ~~secretary--of--state--pursuant--to--s--13-695~~ except as permitted under  
17 subs. (1) (c) and (2) and s. 13-695-(4)-and 19.49.

18 SECTION 5u. 13.695 (1) (intro.) and (c) (intro.) and 1 of the

THE CONFERENCE COMMITTEE. Chapter 288, Laws of 1977, "relating to defining and regulating mopeds....", is an example of the enactment of a law in which a conference committee was used to iron out the last remaining differences on a proposition which, overall, already had the agreement of the 2 houses.

Bills to regulate mopeds -- bicycles with built-in gasoline motors -- were first introduced in the Wisconsin Legislature in the 1975 Session. The 1975 bills, introduced rather late in the session, all failed, but individual members of the Legislature continued to work on the problem. In the 1977 Session, 3 bills were introduced in the Assembly, and one bill was introduced in the Senate. 1977 AB-128 was offered by Rep. Klicka and others; AB-208 by Rep. Kirby and others; AB-235 by Rep. Vanderperren and others; and SB-547 by Sen. Petri and others. All 3 Assembly bills were referred to the Assembly Committee on Highways, which held a combined public hearing in the Capitol on the 3 bills on February 24, 1977. After the public hearing, the committee decided to combine the best features of each of the 3 bills, to add some new provisions reflecting information received at the hearing, and to introduce an entirely new bill: AB-713. That bill passed the Assembly on September 15 with 2 minor amendments correcting the bill so as to reflect some statute law changes meanwhile enacted in the 1977 Budget Act. In the Senate, AB-713 went to the Committee on Commerce which, in Milwaukee, held a public hearing on December 6 while the Legislature was in one of its scheduled committee work periods. In March of 1978, the Legislature was back in session and the Senate passed its own version of the moped bill by adopting a substitute amendment to the bill, together with 3 amendments to the substitute. The Assembly nonconcurred in the Senate version. The Senate refused to recede from its position, but appointed Senators Parys (chair of Sen. Commerce Com.), Goyke and Petri (author of SB-547) as conferees to negotiate the differences between the 2 houses. The Assembly acceded to the request for a conference committee; on its part, it appointed Rep. Vanderperren (chair of A. Highways Com.), Rep. Kirby (author of AB-208) and Rep. Klicka (author of AB-128) as conferees.

The procedures for the creation of conference committees, the scope of their authority, and the submission of their reports to the Legislature, are set forth in Joint Rule 3:

Joint Rule 3. COMMITTEE OF CONFERENCE. In all cases of disagreement between the senate and assembly on amendments, adopted by either house to a bill or joint resolution passed by the other house, a committee of conference consisting of 3 members from each house may be requested by either house, and the other house shall appoint a similar committee.

(1) The usual manner of procedure is as follows: when a bill of one house has been amended and passed by the other house, and has been returned to the house of origin and that house has refused to concur in the amendments, such house shall appoint a committee of conference and notify the other house which shall appoint a committee of conference unless it votes to recede from its amendments. Such committees shall be appointed by the presiding officer, but senate committees shall be confirmed as are standing committees. The joint committee shall, at a convenient hour agreed upon, meet and state to each other, verbally or in writing, the reason of their respective houses for or against the disagreement, and confer thereon, and shall report to their respective houses such agreement as they may arrive at, if any, by the vote of at least 2 of the members of the committee representing each house.

(2) When the conference committee has reached agreement the report shall be first presented, if a senate bill or joint resolution, to the assembly and, if an assembly bill or joint resolution, to the senate.

The vote by each house on the conference report constitutes final action on the proposal.

(3) Approval of the conference report by a roll call vote in each house sufficient to constitute final passage of the proposal shall be final passage of the bill or joint resolution in the form and with the changes proposed by the report.

(4) If the conference committee is unable to agree, another conference committee consisting of new members may be appointed and may proceed to further consideration of the proposal or of amendments thereto.

When a conference committee has reached agreement, it submits the report containing its recommendations to the Legislature. In most cases, attached to the report -- and considered a part thereof -- will be an amendment to the bill or a substitute amendment for the bill. Since the report expresses the opinion of the committee, it cannot be amended on the floor. The pending question is merely adoption (or rejection) of the report. In unusual cases, the Legislature might disagree with the report but remain interested in passage of the bill; in such cases, a new conference committee would be appointed.

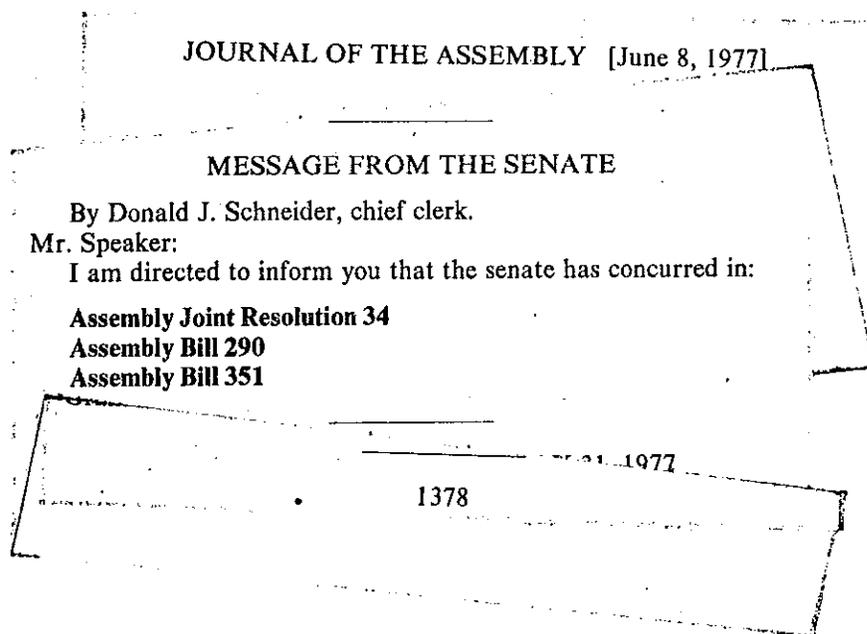
In the case of the moped bill, 1977 AB-713, the conference committee brought in a report recommending that both houses recede from their prior positions on the bill and, instead, agree to a new substitute for the bill offered by the conference committee. This was done. The Senate (conference reports always start in the "2nd house" so that the final action is taken in the house in which the bill originated) adopted the conference report by a vote of 32 to 1; the Assembly concurred unanimously (98 to 0).

Report of <u>Committee of Conference</u> on 1977 Assembly Bill 713	
The members of the Committee of Conference on 1977 Assembly Bill 713	
report and recommend, That, by the adoption of this report:	
1. Both houses recede from their respective positions on Senate Substitute Amendment 1.	
2. The Senate and the Assembly, respectively, adopt and concur in Conference Substitute Amendment 1 (LRB-13705/2) which is attached to and made a part of this report.	
Representative Cletus Vanderperren Assembly Chairperson	Senator Ronald Parys Senate Chairperson
Representative Michael Kirby	Senator Gary Goyke
Representative George Klicka	Senator Thomas Petri

(NOTE: The content of this SAMPLE agrees with the content of the actual conference report on 1977 Assembly Bill 713, but the wording has been edited to agree with the form intended to be used in 1979.)

ENROLLING:

As soon as the whey alcohol bill, 1977 Assembly Bill 351, had been concurred in by the Senate, it was returned to the Assembly. The entry that the bill was received by the Assembly was recorded in the Assembly Journal of June 8, 1977.



After checking that AB-351's bill jacket contained all the documents supposed to be contained therein, and after making sure that the history of the bill, recorded on the jacket, was complete and up-to-date, an employe on the staff of the Assembly Chief Clerk brought the bill to the Legislative Reference Bureau for "enrolling." Enrolling means to prepare a true copy of the bill, containing the text exactly as agreed to by both houses. Enrolling, if necessary, also provides an opportunity for final review of the bill by the legislative attorney who drafted the bill initially so as to reconcile, if possible, any inconsistencies which might have stolen their way into the bill as the result of successive amendments.

Most bills passing the Legislature are in good shape. There are no problems and the LRB can prepare the enrolled text on an overnight basis. Such was the case for 1977 AB-351; it was deposited in the LRB on 6/8/77 and returned to the Office of the Assembly Chief Clerk on 6/9. In the 24-hour period, LRB had created a final version of the bill's computer stored text, had messaged a copy of that text to the computerized typesetting section in the Department of Administration (WISCOMP) to typeset the bill both in the form required for newspaper publication in the WISCONSIN STATE JOURNAL and for publication as a "sliplaw" sheet or pamphlet, and had made 40 copies of the sliplaw version for distribution by the Chief Clerk. Of the 40 copies, one was given a special cover (blue for the Assembly; white for the Senate) to identify this copy as the official copy which will be presented to the Governor for review. On the special cover, each house attests to the passage of the bill as required under the rules of that house; the Governor signs (if he approves the bill); and the Secretary of State assigns the bill its act number as a "chapter" of the session laws enacted by that Legislature.

## JOURNAL OF THE ASSEMBLY [June 13, 1977]

**Assembly Bill 818**

Relating to sexual exploitation of children and providing penalties.

By Representatives Lewis, Gowér and Klicka.

To committee on Criminal Justice and Public Safety.

## COMMITTEE REPORTS

The committee on Enrolled Bills reports and recommends:

**Assembly Joint Resolution 34**

**Assembly Bill 290**

**Assembly Bill 351**

Correctly enrolled.

GERVASE HEPHNER  
Chairperson

Adoption of \_\_\_\_\_

Ayes: (11) Noes: (0)

Passage: Ayes: (11) Noes: (0)

To committee on Rules.

JOSEPH CZERWINSKI  
Chairperson

1392

After checking, in the Chief Clerk's Office, of the text furnished by LRB, the chairperson for the Assembly's Committee on Enrolled Bills, Rep. Hephner, could report (recorded in the 6/13/77 Assembly Journal) that 1977 AB-351 had been: "Correctly enrolled."

CHIEF CLERK'S CORRECTIONS. The 1977 moped bill, AB-713, received a great deal of legislative attention and study during the 14 months from its introduction to acceptance of the conference report. The drafters of the bill, the legislation editor, the bill typists, the records clerks, the members and staff of the standing committees, and the conference committee had made every effort to assure that the final version would be perfect. As is the case for all Wisconsin legislative documents, beginning with its first typing the bill had been entered into the memory of a computer so that all subsequent versions could successively modify the original text, and so that all spelling errors could be permanently fixed as soon as they were detected. Still, 1977 AB-713 as finally passed contained a mistake. It was a minor mistake: one part of the bill, creating a new statute, initially proposed to give that statute a certain number but subsequently assigned it a different number; another part of the bill contained a numeric "cross reference" to the new statute but was not changed when the statute had been renumbered.

CHIEF CLERK'S CORRECTION  
suggested by Legislative Reference Bureau

April 7, 1978

Relating to: Assembly Bill 713

In enrolling, the following change was made in the treatment of section 341.51 (6) of the statutes: replace "218.06" with "218.41" as shown by the drafting record for Senate Substitute Amendment 1 in which the proposed section was assigned the new number, and make the same change in Conference Substitute Amendment 1.

Under Senate Rule 31 (3) and Assembly Rule 38 (4), "any correction made by the chief clerk...shall be noted on the jacket envelope and entered in the journal".

Fill out in quintuplicate.

- Distributions: 1. Two copies to Chief Clerk of the house in which the measure was introduced.  
2. Orlan L. Prestegard, Revisor of Statutes.  
3. Place in drafting file.  
4. Place in LRB correction file.

Such mistakes are unfortunate. Uncorrected, they could frustrate the intent of the Legislature, and jeopardize the implementation of the law. To prevent these consequences, both houses have authorized their chief clerks (Assembly Rule 38; Senate Rule 31) to correct "minor clerical errors" whenever they are found. Any correction made in a bill under these rules must be noted in the bill history as recorded on the bill jacket, and the full text of the correction is noted in the legislative journal for the house in which the bill originated.

#### REVIEW BY THE GOVERNOR:

The Wisconsin Constitution, in Section 10 of Article V, indicates that the Governor has 6 days (Sundays excepted) to review -- and approve or veto -- bills after they have passed the Legislature. Similar statements are found in most other state constitutions.

In other states, the time limit for bill review following passage by the legislature is usually tolled from the date of passage. In Wisconsin it is not. In our state, the period begins to run with the official receipt of the bill in the Governor's Office. Over the years the Legislature and the Governor have developed a working relationship whereby the Legislature, informally, furnishes one or more copies of the enrolled bill to the Governor's staff for analysis as soon as such copies are available. The staff does whatever research is necessary for the information of the Governor; when the research is completed, the Governor's Office informs the Chief Clerk's Office that it is now ready to "receive" the bill, and the Chief Clerk's Office delivers the official copy.

On the whole, this process has worked rather well. It avoids overloading the Governor's Office when -- as is the case at the close of each regularly scheduled floorperiod -- a large number of bills pass the Legislature within the span of only a few days. It enables the bill's sponsors to provide additional information to the Governor's Office in case there is any question concerning the desirability of the bill as a matter of public policy. On the other hand, the process has occasionally been abused to the point where a Legislature was ready to commence its next regularly scheduled floorperiod, and the Governor still had not completed his review of the bills passed during the preceding floorperiod.

Beginning with the Biennial Session Schedule adopted by the 1975 Legislature, the Chief Clerks have been given a deadline date for the official depositing in the Governor's Office of all legislation passed by both houses. Thus, both the Chief Clerks and the Governor now know, long in advance, how much time

will be available for the review of legislation, and can plan accordingly. For the 1977-79 Session, the Session Schedule was adopted by 1977 Assembly Joint Resolution 12 (AJR-12). There were 3 deadline dates for depositing the last bills passed at the preceding floorperiod in the Governor's Office: 11/21/77, 5/22/78, and 6/23/78.

THE STATE OF WISCONSIN



Enrolled 1977 Assembly Joint Resolution 12

1977 SESSION SCHEDULE

As Adopted January 13, 1977.

Creating the session schedule for the 1977-79 biennial session period, as required by section 13.02 (3) of the statutes.

SESSION SCHEDULE AT A GLANCE

January 3, 1977	Inauguration Day
Jan. 11 to Feb. 18, 1977	Floorperiod I
Feb. 21 to Mar. 26, 1977	Budget Hearings
Mar. 29 to July 1 or budget passage	Floorperiod II
September 6 to 30, 1977	Floorperiod III
November 21, 1977	Bills Sent to Gov.
January 24 to 26, 1978	Veto Review
Jan. 31 to Mar. 31, 1978	Floorperiod IV
May 22, 1978	Bills Sent to Gov.
June 13 to 15, 1978	Veto Review
June 23, 1978	Last Bill to Gov.
January 1, 1979	End of 1977 Term

Resolved by the assembly, the senate concurring, That:

SECTION 1. Biennial session period. In implementation of section 13.02 of the statutes, the legislature hereby declares that the biennial session period of the 1977 Wisconsin legislature began at 12

The Governor's authority to review a bill and to approve it or veto it, or to veto an appropriation bill in part, is set forth in detail in Section 10 of Article V of the Wisconsin Constitution. The last sentence of that section has become obsolete by legislative practice. The Wisconsin Legislature has been in continuous session -- organized into floorperiods and periods of committee work -- for nearly 2 decades. There is no longer any time when the Legislature, by its adjournment, prevents a Governor from returning a bill for veto review. Consequently, the so-called "pocket veto" is no more. In every case in which a Governor vetoes a bill, or vetoes any part of an appropriation bill, he must state to the Legislature his reasons for the veto.

Wisconsin Constitution [Article V] GOVERNOR TO APPROVE OR VETO BILLS; PROCEEDINGS ON VETO. Section 10. Every bill which shall have passed the legislature shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large upon the journal and proceed to reconsider it. Appropriation bills may be approved in whole or in part by the governor, and the part approved shall become law, and the part objected to shall be returned in the same manner as provided for other bills. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, or the part of the bill objected to, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays,

and the names of the members voting for or against the bill or the part of the bill objected to, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within six days (Sundays excepted) after it shall have been presented to him, the same shall be a law unless the legislature shall, by their adjournment, prevent its return, in which case it shall not be a law.

1977 Assembly Bill 351, which had been reported correctly enrolled on June 13, 1977, was deposited in the Governor's Office in the first week in August. At that time, the Legislature was in one of its committee work periods.

Ordinarily, the journals of the Legislature are published for the purpose of reporting the activity of the Legislature in its floor activities. In addition, the Wisconsin Legislature supplements its journals by "Chief Clerk's Entries" during the committee work periods so as to record any reports received by the Legislature from its committees, and any messages received by the Legislature from outside sources including the Governor's Office. Such a Chief Clerk's Entry addition to the Assembly Journal, dated 8/17/77, recorded that AB-351 was approved by the Governor on August 16, 1977, that the bill was deposited in the Office of the Secretary of State, and that the Secretary of State had assigned the new act its number as "Chapter 81, Laws of 1977".

JOURNAL OF THE ASSEMBLY [August 17, 1977]

Passage: Ayes: (7) Noes: (0)  
To Joint Committee on Finance.

SHARON METZ  
Chairperson

The committee on Labor reports and recommends:

assistance.

Passage: Ayes: (9) Noes: (0)  
To Joint Committee on Finance.

FRANCIS LALLENSACK  
Chairperson

EXECUTIVE COMMUNICATIONS

State of Wisconsin  
Office of the Governor  
Madison

To the Honorable, the Assembly:

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

Assembly Bill	Chapter No.	Date Approved
351	81	August 16, 1977
440	82	August 16, 1977

Office of the Governor  
Martin J. Schreiber

SCHEIBER SIGNS THREE BILLS

PRESS RELEASE

For release  
Tuesday, August 16, 1977

For more information:  
Carl Mueller  
(608)266-1212

MADISON, WI--Legislation which makes it easier for people with hearing and speech disabilities to communicate by telephone was signed into law today by Acting Gov. Martin J. Schreiber.

The bill, AB-440, requires counties with populations more than 200,000 and cities with populations more than 30,000 to install teletypewriters to receive emergency messages from people with speech and/or hearing disabilities. The teletype machines will be installed in county sheriff's offices or in police and fire departments in the affected cities.

Three counties and 14 cities are affected by the bill.

"People with speech and hearing disabilities are taxpayers and deserve emergency services equivalent to those other taxpayers enjoy.

This bill will help remedy this situation.

Schreiber also signed:

AB-505, eliminates words from state laws which describe human, mental or physical conditions with derogatory connotations. The bill substitutes words with the same meaning. Words eliminated include "insane," "idiot," "senile," "feeble-minded," "crippled," "invalid," "deformity," "defective," and "abnormality."

AB-351, provides a tax break on potable alcohol generated through conversion of whey and other brewing wastes.

The bill reduces the tax on intoxicating liquor containing more than 0.5 per cent alcohol by volume to \$1 per wine gallon.

MORE

The Wisconsin Constitution requires Governors to state their reasons only when they veto a bill. In recent years, however, Governors have also provided written statements with every bill approved. Usually, this takes the form of a press release.

August 16, 1977  
Page 2

Under current law, there is a tax of \$2.60 per gallon on intoxicating liquor, except wine, containing more than 0.5 per cent alcohol by volume.

The law applies to alcohol manufactured or distilled in the state by pollution control facilities or from whey and brewing wastes.

Wisconsin generates 13.5 billion pounds of whey annually, according to the Department of Natural Resources. The problem of disposal has been eliminated through the development of a new process, which transforms whey into potable alcohol and high protein animal feed. Neither generates pollutants.

###

VEETO REVIEW BY THE LEGISLATURE:

Whenever the Governor vetoes a bill the Legislature is required, by the state constitution (Sec. 10 of Art. V), to "proceed to reconsider" the bill. This does not necessarily require the Legislature to schedule the bill for floor action. If there is already a consensus that the bill was, after all, not the best solution to the problem it addressed, the vetoed bill may never be taken up. The outcome is the same as though the Legislature had "refused to pass the bill notwithstanding the objections of the Governor" -- the veto is sustained. Although it must be assumed that each bill passed by the Legislature was given every necessary consideration, the research done by the Governor's staff occasionally does point out flaws which were not readily apparent earlier. Thus, gubernatorial vetoes are sustained by legislative inaction much more frequently than might be assumed.

On the other hand neither the Governor, nor his staff, is all-knowing. Being elected from districts rather than from the state at-large, individual members of the Legislature are in many cases more familiar with the specific local conditions that prompted the bill in the first place. Furthermore, the Governor's reasons for vetoing a bill, and the Legislature's reasons for passing the bill notwithstanding the objections of the Governor, sometimes merely reflect their philosophical differences as to what policy would be best for the state. Recent examples of bills passed into law notwithstanding the objections of the Governor, by the required two-thirds of the members of each house, include:

- Chap. 197, Laws 1977: Permitting auto haulers to exceed truck length limits.
- Chap. 198, Laws 1977: Food processing regulations do not apply to farmer bee-keepers who extract and market their own honey.
- Chap. 204, Laws 1977: Repeal of the motorcycle helmet law.
- Chap. 445, Laws 1977: Composition of City of Milwaukee school board.

When the Governor vetoes a complete bill, the issue before the Legislature is clear-cut. Either the veto is sustained, or the bill passes both houses by the required 2/3 votes and becomes law. In the case of appropriation bills, the situation is usually more complicated. An "appropriation bill" is any bill containing an item of appropriation. The item of appropriation may be insignificant in terms of the total thrust of the proposal but, as long as it is within the four corners of the proposal, the Wisconsin Constitution authorizes the Governor to approve the bill in part, "and the part approved shall become law." This provision was added to the Section 10 of Article V of the Wisconsin Constitution by an amendment ratified by the Wisconsin voters in the November election of 1930.

Although the provision is often referred to as a power of "item veto", it is actually much more than that. An "item", as that word is used in most state constitutions, is usually interpreted as at least one whole paragraph. The Wisconsin Constitution, however, uses the word "part". There is no agreement just how small a "part" can get. In the 1977-1979 Budget Act, Gov. Lucey in several instances tried to use the power to completely rewrite text passed by the Legislature. The Legislature, objecting perhaps as much to what it considered an abuse of the item veto power as it objected to the text which the Governor intended to become law, overruled the partial veto:

Governor's Proposed Text

(3) In a county with population exceeding 75,000 or a county adjacent to a county with population exceeding 400,000, adoption of a county exclusive agricultural use zoning ordinance under this subchapter for all towns within the county by the county board, notwithstanding s. 59.97 (5), shall be the only procedure in such a county.

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CHAPTER 29

91.73 Procedures. (1) Except as otherwise provided, exclusive agricultural zoning ordinances shall be adopted and administered in accordance with ss. 59.97 to 59.99, 60.74 and 60.75, 61.35 or 62.23.

(2) Exclusive agricultural zoning ordinances shall be consistent with county agricultural preservation plans established under subch. IV.

(3) A majority of towns in a county with population exceeding 75,000 or a county adjacent to a county with population exceeding 400,000, may reject adoption of a county exclusive agricultural use zoning ordinance under this subchapter for all towns within the county only by filing within 6 months after adoption of the ordinance by the county board certified copies of resolutions disapproving the ordinance with the county clerk. Notwithstanding s. 59.97 (5) (c), the procedure established in this subsection shall be the only procedure by which a town in such a county may reject the application of a county agricultural use zoning ordinance in that town.

(4) Amendments to the texts of existing county zoning ordinances to bring the ordinances into compliance with this chapter, which are adopted by the county board, shall be effective in any town which does not file a certified copy of a resolution disapproving of the amendment pursuant to s. 59.97 (5) (e) 3m or 6.

Partial Veto Overruled

Whenever a law is published containing text approved in part and vetoed in part, the type coding indicating the change can become quite complicated -- particularly when, as is shown in the example taken from Chapter 29, Laws of 1977 (1977-79 Budget Act) that law also contains text which, resulting from the Legislature's 2/3 votes to override the veto, now becomes law notwithstanding the objections of the Governor.

CHAPTER 29

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13.94 (1) (dd) At least once every 2 years, conduct a financial audit of the department of employe trust funds, to include financial statements and an evaluation of accounting controls and accounting records maintained by the department for individual participants and employers. Within 30 days after completion of such audit the bureau shall file with the governor, the legislative reference bureau, the department of administration and the department of employe trust funds a detailed report thereof, including specific instances, if any, of illegal or improper transactions.

SECTION 13c. 13.94 (1) (g) of the statutes is amended to read:

13.94 (1) (g) Require each state department, board, commission, independent agency or authority to file with the bureau on or before September 1 of each year a report on all receivables due the state as of the preceding June 30 which were occasioned by activities of the reporting department. Said unit. The report may also be required of other departments as defined in sub. (4). The report shall show the aggregate amount of such receivables according to fiscal year of origin and collections thereon during the fiscal year preceding the report. The state auditor may require any department to file with the bureau a detailed list of the receivables comprising the aggregate amounts shown on the above-indicated reports prescribed by this paragraph.

SECTION 13m. 13.94 (3) (f) of the statutes is created to read:

13.94 (3) (f) Appoint, outside the classified service, a deputy state auditor and 4 legislative audit directors.

SECTION 13r. 13.94 (4) of the statutes is renumbered 13.94 (4) (a) and amended to read:

13.94 (4) (a) In this section, "department" means every state department, board, commission or independent agency; and includes the Wisconsin health facilities authority, the Wisconsin housing finance authority and the Wisconsin solid waste recycling authority; every provider of medical assistance under ch. 49; and every corporation, institution, association or other organization which receives more than 50% of its annual budget from appropriations made by state law.

Partial Veto Overruled

SECTION 13w. 13.94 (4) (b) of the statutes is created to read:

13.94 (4) (b) In performing audits of providers of medical assistance under ch. 49 and corporations, institutions, associations, or other organizations, the legislative audit bureau shall audit only the records and operations of such providers and organizations which pertain to the receipt, disbursement or other handling of appropriations made by state law.

Partial Veto Overruled

SECTION 14. 14.01 (1) of the statutes is repealed.

SECTION 15. 14.01 (3) of the statutes is repealed.

Vetoed in Part

SECTION 16. 14.017 (1) of the statutes is renumbered 15.467 (3), and 15.467 (3) (intro.), as renumbered, is amended to read:

15.467 (3) (intro.) Chapter on highway safety. There is created in the executive office department of transportation a council on highway safety. Section 15.467 applies to the council. The council shall consist of 12 members, as follows:

SECTION 16m. 14.06 of the statutes is amended to read:

14.06 Review of certain rules by governor. After August 7, 1951, any Any general code covering a particular subject adopted by the department of agriculture, trade and consumer protection or by the department of health and social services shall be submitted to the governor 30 days in advance of the proposed effective date. If any taxpayer complains in writing to the governor, the governor may suspend the effective date of such code until such time as the proposed code is approved by the legislature. If the governor does so suspend the code, he the governor shall send the proposed code with his or her certificate of suspension to the secretary of state for transmittal to the

In all Wisconsin legislation, text coded by strike-through indicates existing law which the Legislature proposes to delete, while text coded by underscoring represents text which the Legislature proposes to insert into existing law. Entirely new text [see illustration: 13.94 (1) (dd) and SECTION 13m] is represented by plain type. Text marked by contrasting overlay (/////) indicates a vetoed part for which the Legislature sustained the veto. Text typeset in the oblique typeface represents a vetoed part passed into law notwithstanding the objections of the Governor.



The SLIPLAW version of Chapter 81, Laws of 1977:

## STATE OF WISCONSIN

1977 Assembly Bill 351

Date published\*: August 19, 1977

## CHAPTER 81, LAWS OF 1977

AN ACT to amend 139.03 (2m) (intro.); and to create 139.03 (2i) of the statutes, relating to tax on liquor produced from whey and brewing wastes or by pollution control facilities.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 139.03 (2m) (intro.) of the statutes is amended to read:

139.03 (2m) (intro.) The rate of such tax, effective November 5, 1971, and thereafter, is \$2.60 per wine gallon on intoxicating liquor, except wine and intoxicating liquor taxed under sub. (2i), containing 0.5% or more of alcohol by volume, and is computed in accordance with the following table: [See Figure 139.03 (2m) following]

SECTION 2. 139.03 (2i) of the statutes is created to read:

139.03 (2i) The rate of tax, effective on the effective date of this act (1977) and thereafter, is \$1 per wine gallon on intoxicating liquor, containing 0.5% or more of alcohol by volume, manufactured or distilled in this state by pollution control facilities as defined in s. 66.521 (2) (h) or from whey and brewing wastes which are produced in this state. The tax shall be computed in accordance with the following table, and the department of revenue shall calculate the equivalent rates for metric containers: [See Figure 139.03 (2i) following]

Figure 139.03 (2i):

Quantity in Wine Gallons	Quantity in Ounces	Tax
Up to and including 1/64 of a gallon	Up to and including 2	\$ .015625
More than 1/64 of a gallon to and including 1/32 of a gallon	More than 2 to and including 4	.03125
More than 1/32 gallon to and including 1/16 of a gallon	More than 4 to and including 8	.0625
More than 1/16 gallon and including 1/10 gallon	More than 8 to and including 12.8	.10
More than 1/10 gallon to and including 1 pint	More than 12.8 to and including 16	.125
More than 1 pint to and including 1/5 gallon	More than 16 to and including 25.6	.20
More than 1/5 gallon to and including 1 quart	More than 25.6 to and including 32	.25
More than 1 quart to and including 1/2 gallon	More than 32 to and including 64	.50
More than 1/2 gallon to and including 1 gallon	More than 64 to and including 128	1.00

\* Section 990.05, 1975 Wisconsin Statutes: Laws and acts; time of going into force. "Every law or act which does not expressly prescribe the time it takes effect shall take effect on the day after its publication."

At the end of each session year, the Legislative Reference Bureau makes a complete computer tape of all laws enacted and published during that year. This tape is used to typeset camera-ready copy for the publication of the session laws volume by the Secretary of State. Although one session laws volume is published every year, each volume is denominated by the year of convening of the Legislature which enacted the laws. Thus, the session laws volume published in 1977 was entitled LAWS OF WISCONSIN 1977 Volume 1, and the session laws volume published in 1978 was entitled LAWS OF WISCONSIN 1977 Volume 2. Chapter 81, Laws of 1977, can be found at page 531 of Volume 1.

The same files used to prepare the session laws copy, computer edited, are used also to prepare camera-ready copy for the publication of Wisconsin laws by any commercial publisher who wants to buy the camera-ready copy. Currently, the State of Wisconsin sells such copy to the "West's" law book publishing company of Saint Paul, Minn. West's is the publisher of a "Wisconsin Legislative Service" purchased on a subscription basis by many attorneys practicing law in Wisconsin.

Ultimately, all laws of general application enacted by the Legislature are incorporated into the Wisconsin statutes. This work is done by the Revisor of

Statutes. The Wisconsin statutes, up to date, are re-published every 2 years. Today's Wisconsin statutes are based on the complete statute revision enacted by the Wisconsin Legislature as the "Wisconsin Statutes 1898". Each biennial edition is identified by the year of convening of the Legislature which last made changes in the statutes. Thus, the edition of the Wisconsin statutes revised to contain the laws enacted by the 1977 Legislature is identified as the WISCONSIN STATUTES 1977. All changes in statute law enacted by the whey alcohol law (Chap. 81, Laws 1977), are reflected in the wording of subsections (2m) and (2t) of section 139.03 of the statutes. In the 1977 edition of the statutes, section 139.03 can be found on pages 2722 and 2723.

# WISCONSIN STATUTES

1977

(34th Edition)

Embracing all general statutes enacted by the 1977 General Session prior to its adjournment on March 31, 1978 and the June 1977, November 1977 and June 1978 Special Sessions and the June 1978 Veto Review Session.

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(End)

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