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EXECUTIVE VETOES OF BILLS PASSED BY THE 1983 WISCONSIN LEGISLATURE

INTRODUCTION

This brief contains the veto messages of Governor Anthony S. Earl affecting legislation passed by the 1983 Wisconsin Legislature during Floorperiods III (October 4-28, 1983) and IV (January 31-April 6, 1984) and the special sessions (October 1983 and February 1984).

Status of Legislation

During the 1983 Legislative Session (regular and special) from January 3, 1983 through April 6, 1984, there were 1,922 bills (730 Senate and 1,192 Assembly bills) introduced, of which 540 bills were passed by both houses. Through May 11, 1984, Governor Earl has taken action on all 540 bills, approving 537 (including the partial veto of 11 bills: SB-83, SB-600, AB-173, AB-540, AB-595, AB-975, AB-986, AB-1035, O83AB-5, O83AB-6, O83AB-7) and vetoing 3 bills (AB-309, AB-488, AB-968). As of May 11, 1984, the Legislature has taken action on the partial vetoes of 1983 Wisconsin Act 27 (Senate Bill 83).

Legislative action is pending on the following:

Complete Vetoes	Page	Partial Vetoes	Page
1983 Assembly Bill 309.....	3	1983 Wisconsin Act 83 (O83AB-6).....	4
1983 Assembly Bill 488.....	3	1983 Wisconsin Act 91 (O83AB-5).....	8
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		1983 Wisconsin Act 371 (AB-173).....	11
		1983 Wisconsin Act 378 (AB-975).....	12
		1983 Wisconsin Act 410 (AB-595).....	14
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		1983 Wisconsin Act 426 (AB-1035).....	25
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Veto Brief Format

For the pending vetoed bills (AB-309, AB-488, AB-968), this brief contains: 1) a brief bill identification; 2) the vote on final passage in each house and the page number of the loose-leaf journals referring to the vote ("S.J." stands for Senate Journal; "A.J." stands for Assembly Journal); and 3) the text of each veto message by Governor Earl from the respective Senate or Assembly Journal.

For the pending partially vetoed bills (SB-600, AB-173, AB-540, AB-595, AB-975, AB-986, AB-1035, O83AB-5, O83AB-6, O83AB-7), in addition to a brief bill identification and vote on final passage, this brief contains information for each item in the following sequence:

(1) *Governor's Veto Message*. The text of the written objections of Governor Earl to each bill, by segment, from the respective Senate or Assembly Journal.

(2) *Bill Segments Cited*. A reproduction of the vetoed segments of each bill, as shown in the published act. The material vetoed is indicated by a distinguishing overlay — ~~like this~~.

The Veto Process

Wisconsin Governors have been granted the constitutional power to veto bills in their entirety since the Constitution's ratification in 1848. In the election of November 1930, the people of Wisconsin ratified a constitutional amendment granting the Governor the additional power to veto appropriation bills in part.

The provision of the Wisconsin Constitution — Section 10 of Article V — granting the veto power, and the annotations to that provision printed with the section in the 1981-82 edition of the *Wisconsin Statutes*, read as follows:

WISCONSIN CONSTITUTION [Article V] Section 10. GOVERNOR TO APPROVE OR VETO BILLS; PROCEEDINGS ON VETO. "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."

Note: In determining whether the governor has acted in 6 days, judicial notice may be taken of the chief clerk's records to establish the date it was presented to him. *State ex rel. General Motors Corp. v. Oak Creek*, 49 W (2d) 299, 182 NW (2d) 481.

Despite resulting change in legislative policy, governor's partial veto of appropriations bill was constitutional. *Sundby v. Adamany*, 71 W (2d) 118, 237 NW (2d) 910.

Procedural and substantive aspects of the partial veto discussed. *State ex rel. Kleczka v. Conta*, 82 W (2d) 679, 264 NW (2d) 539.

In exercising a partial veto, the Governor may produce a law not in accord with the intent of the Legislature. 59 Atty. Gen. 95.

Governor's veto of one digit of a separable part of an appropriation bill constitutes an objection within the meaning of sec. 10 and the entire part is returned to the legislature for reconsideration. 62 Atty. Gen. 238. See note to art. IV, sec. 20, citing 63 Atty. Gen. 346, concerning recording yeas and nays.

I. COMPLETELY VETOED BILLS

1983 Assembly Bill 309: Nursing Home Personnel Payroll Records

The Assembly passed Assembly Bill 309 (as amended by Assembly Amendments 2 and 5) by a vote of 51 to 46, A.J. 3/22/84, p. 1024. The Senate, in turn, adopted Senate Amendments 1, 2 and 3 to the bill by voice votes, S.J. 4/4/84, p. 846, and concurred in the bill, as amended, by a voice vote, S.J. 4/4/84, p. 846. The Assembly then concurred in Senate Amendments 1, 2 and 3 by voice votes, A.J. 4/5/84, p. 1157.

Assembly Bill 309 was vetoed by the Governor on 5/10/84.

Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I am vetoing Assembly Bill 309 because technical problems with two Senate amendments prevented the bill from being enrolled in a manner which reflects the intent of the Legislature.

Although members of both the Assembly and the Senate adopted language which limited the payroll inspection of nursing homes to those homes which have been named in a verified complaint, technical conflicts between Senate Amendment 1 and Senate Amendment 2 prevented this provision from being included in the enrolled version of Assembly Bill 309.

It is my intention, therefore, to support a bill which better reflects legislative intent.

1983 Assembly Bill 488: Department of Veterans Affairs Secondary Mortgage Loan Program Priorities

The Assembly passed Assembly Bill 488 by a voice vote, A.J. 3/13/84, p. 921. The Senate, in turn, concurred in the bill by a voice vote, S.J. 4/5/84, p. 860.

Assembly Bill 488 was vetoed by the Governor on 5/10/84.

Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I am vetoing Assembly Bill 488 for the following reasons. The Wisconsin Department of Veterans Affairs (DVA) had been prevented from issuing third-priority loans to applicants with U.S. Department of Housing and Urban Development (HUD) mortgage loans. The DVA and HUD have negotiated an administrative solution to the problem and the bill is therefore no longer needed. At the request of DVA, HUD may subordinate their mortgage to the DVA second mortgage loan. This process will be used on a case-by-case basis and will be very limited in number.

Further, the benefits of third-priority loans would be inequitably distributed to a small number of individuals already receiving significant public subsidies. Under Assembly Bill 488, the Department of Veterans Affairs could grant a \$5,000 second mortgage at three percent for up to 23 years to a veteran who has already received a below-market interest rate on a HUD-issued second mortgage. All demands from veterans for second mortgage loans are not now being met. It would be more equitable to meet all these demands before issuing third-priority loans.

Finally, this bill would further exacerbate solvency problems identified for the Veterans Trust Fund (VTF) — a problem we will have to address in the near future.

1983 Assembly Bill 968: Group Deer Hunting

The Assembly passed Assembly Bill 968 (as amended by Assembly Amendments 2, 1 to 2 and 3) by a voice vote, A.J. 2/28/84, p. 794. The Senate, in turn, concurred in the bill by a voice vote, S.J. 4/3/84, p. 831.

Assembly Bill 968 was vetoed by the Governor on 5/10/84.

Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I am vetoing Assembly Bill 968 because the provisions for group bagging of deer contained in the bill are vague and unenforceable and the elimination of the retention requirement for deer carcass tags hampers proper enforcement of deer hunting laws.

The group bagging language in Section 1 (29.01 (7m)) and Section 3 (29.40 (6)) is not specific enough for law enforcement purposes. The practical application of this language in the field will require additional discretion by wardens in interpretation of this statute. The statutes should more clearly define and outline the conditions under which group deer hunting is permitted. The law enforcement officers must be given more specific direction so that they can effectively enforce and interpret the law. A statute which more clearly establishes definite parameters for group bagging of deer will also help to maintain a positive image of deer hunters in Wisconsin.

This bill also rewrites the deer tag retention policy in Section 2m (29.40 (2)). This section requires deer tags to be retained only until the time of butchering. Under current law, carcass and registration tags are required to remain with the venison until it is consumed. A substantial amount of law enforcement action for deer hunting violations has been based on this tag retention policy. Some of the types of violations which would be affected by Assembly Bill 968 are excess bag limits, closed season deer and locker plant violations. The non-retention of deer tags after the time of butchering as presented in this bill creates a serious law enforcement problems and eliminates an important mechanism to judge the legality of deer which have been killed.

Timing is a critical problem for group bagging and tag retention legislation because of the upcoming deer season. Because of this timing problem, I am introducing a remedial bill. This bill will legalize group bagging while establishing more definite parameters for it and will address the problems with the current tag retention statute while keeping it enforceable.

II. PARTIALLY VETOED BILLS

October 1983 Special Session Assembly Bill 6 (1983 Wisconsin Act 83):

Development Loans

The Assembly passed October 1983 Special Session Assembly Bill 6 (as amended by Assembly Amendments 1, 1 to 1, 2, 3, 1 to 3, 4, 1 to 4, 5, 8, 9, 15, 1 to 15, 16, 18, 1 to 18, 23, 1 to 23, 25, 26) by a vote of 76 to 22, A.J. 10/26/83, p. 533. The Senate, in turn, adopted Senate Amendments 1, 2, 3, 1 to 3 and 7 on voice votes, S.J. 10/28/83, p. 500, and concurred in the bill, as amended, by a vote of 24 to 8, S.J. 10/28/83, p. 501. The Assembly then concurred in Senate Amendments 1, 2, 3 and 7 on voice votes, A.J. 10/28/83, p. 572.

October 1983 Special Session Assembly Bill 6 was vetoed in part and approved in part, and the part approved became 1983 Wisconsin Act 83, published in the *Wisconsin State Journal* on 11/16/83.

Part 1: Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I have approved Special Session Assembly Bill 6 as 1983 Wisconsin Act 83, and deposited it in the office of the Secretary of State. I have exercised the partial veto power in six instances as follows:

Part 2: Vetoed Items

Subject Area: ECONOMIC DEVELOPMENT

Item 1. Financial Institution Definition

Governor's written objections.

Section 5

S. 234.01(5i). This veto deletes s. 234.01(5i) and a reference to the same on the first line of Section 5, after (4n). Section 234.01(5i) defines "financial institution," which has already been defined, with one non-substantive difference, in Section 2 of Assembly Bill 451. This veto will avoid the confusion and redundancy which would have arisen by having two definitions of the same term appearing in the statutes.

Cited segments of October 1983 Special Session Assembly Bill 6:

SECTION 5. 234.01 (3m), (4m), (4n) and ~~(5i)~~ of the statutes are created to read:
234.01

**Vetoed
in Part**

**Vetoed
in Part**

~~(5i) "Financial institution" means a bank, savings and loan association, credit union, insurance company, finance company, mortgage banker, community development corporation, small business investment corporation, pension fund or other lender engaged in making commercial loans in this state.~~

Subject Area: ECONOMIC DEVELOPMENT

Item 2. Economic Development Lending

Governor's written objections.

Section 8

S. 234.03(21). This veto will eliminate the requirement that Department of Development (DOD) consent must be given before WHEDA can participate in economic development lending. Parallel

authorizing language in Assembly Bill 451, affecting the same section of the statutes, contains no reference to DOD consent. The DOD consent requirement is covered by s. 234.65(3m); therefore, the reference in s. 234.03(21) is unnecessary and inconsistent with the balance of s. 234.03.

S. 234.03(24). This section empowers the Authority to withhold disbursement of funds for the construction or improvement of property until the project has been satisfactorily completed, a financial institution has issued an irrevocable letter of credit, or a corporate surety has furnished an acceptable performance bond. The Authority has broad statutory powers to set the terms and conditions of its loans and does not need special authorization to withhold funds. Moreover, concern has been expressed that a statutory reference to specific reasons due to which the Authority may withhold funds could be construed to limit withholding to those reasons only. Finally, this subsection is being vetoed because it does not make sense to withhold construction loans when the purpose of such loans is to finance construction.

.....
Cited segments of October 1983 Special Session Assembly Bill 6:

SECTION 8. 234.03 (21) to (30) of the statutes are created to read: **Vetoed in Part**
234.03 (21) ~~With the consent of the department of development~~ to purchase and enter into commitments to purchase all or part of economic development loans and to lend funds to financial institutions agreeing to use the funds immediately to make economic development loans, if the authority determines that a conventional loan is unavailable on reasonably equivalent terms and conditions.
~~(24) To withhold disbursement of funds under a commitment to purchase or participate in a mortgage or economic development loan for the construction or improvement of property until the construction or improvement is completed according to the plans and specifications, a financial institution has issued an irrevocable letter of credit or a corporate surety has furnished an acceptable performance bond.~~ **Vetoed in Part**

Subject Area: ECONOMIC DEVELOPMENT

Item 3. Funds and Accounts System

.....
Governor's written objections.

Section 13

S. 234.24. This section of the bill amends the statutes to require the Authority to prescribe a system of funds and accounts. The same amendment was made in Assembly Bill 451. However, the title of s. 234.24 in **Assembly Bill 6** does not contain the words "funds and," which were added to the body of s. 234.24 and included in the title of that section in Assembly Bill 451. This veto will clarify the placement of the words "funds and" in the statutes.

.....
Cited segments of October 1983 Special Session Assembly Bill 6:

~~SECTION 13. 234.24 of the statutes is amended to read:~~ **Vetoed in Part**
~~234.24 System of accounts. Subject to agreements with noteholders and bondholders, the authority shall prescribe a system of funds and accounts.~~

Subject Area: ECONOMIC DEVELOPMENT

Item 4. Economic Development Loan Program

Governor's written objections.

Section 16

S. 234.65(1m) and (3m). Section 16 establishes standards and criteria for the economic development loan program and defines the DOD's role in administering the program. Under this section, DOD must promulgate rules, adopt procedures and certify compliance with the standards and criteria.

As enrolled, the bill calls for DOD to promulgate rules and adopt procedures to implement subs. (2) and (3) of s. 234.65. Subsection (2) requires the Authority to consider a variety of factors before financing an economic development loan. Subsection (3) sets specific conditions for individual loans. This veto will eliminate the requirement that DOD adopt rules and procedures implementing subsection (2). Since the responsibility to consider the listed factors clearly rests with the Authority, it is inappropriate for DOD to have rule-making authority in this area. The veto will retain DOD's responsibility to adopt rules regarding and certify the compliance of individual loans with the loan conditions enumerated in subsection (3).

S. 234.65(3)(dg). This veto will eliminate the first sentence of s. 234.65(3)(dg). This sentence requires all economic development loans to be secured "with security devices for the Authority's benefit in such form and amount as the Authority may determine to minimize the Authority's investment risk." The Authority is already empowered to set the terms and conditions of its loans and the bond market will demand that the Authority minimize its investment risk. Administrative interpretation of the broad language in this sentence could affect the Authority's use of security devices and, therefore, the marketability of bonds. The veto retains the second sentence of s. 234.65(3)(dg). Retaining the second sentence, which clearly states that the Authority shall not assume primary risk for any economic development loan, strikes the necessary balance between clarifying legislative intent and satisfying bond market sensitivity to administrative oversight of Authority risk decisions.

Cited segments of October 1983 Special Session Assembly Bill 6:

SECTION 16. 234.65 of the statutes is created to read:

234.65 Economic development.

(1m) The department of development shall, in consultation with the authority, promulgate rules and adopt procedures, in accordance with the procedures under ch. 227, to implement subs. ~~1m and~~ (3). **Vetoed in Part**

(3m) An economic development loan may not be made unless the department of development complies with sub. (1m) and certifies that each loan complies with subs. ~~1m and~~ (3). **Vetoed in Part**

234.65 Economic development.

(3)

(dg) ~~All such loans shall be secured with security devices for the authority's benefit in such form and amount as the authority may determine to minimize the authority's investment risk.~~ The authority shall not assume primary risk for any economic development loan. **Vetoed in Part**

**October 1983 Special Session Assembly Bill 5 (1983 Wisconsin Act 91):
Permit Information Center**

The Assembly passed October 1983 Special Session Assembly Bill 5 (as amended by Assembly Amendments 1, 2, 3, 5, 6, 9, 10, 13, 14, 17 and 18) by a vote of 98 to 0, A.J. 10/26/83, p. 529. The Senate, in turn, adopted Senate Amendment 2 by a voice vote, S.J. 10/28/83, p. 500, and concurred in the bill, as amended, by a vote of 28 to 4, S.J. 10/28/83, p. 500. The Assembly then concurred in Senate Amendment 2 by a voice vote, A.J. 10/28/83, p. 572.

October 1983 Special Session Assembly Bill 5 was vetoed in part and approved in part, and the part approved became 1983 Wisconsin Act 91, published in the *Wisconsin State Journal* on 11/16/83.

Part 1: Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I have approved special session Assembly Bill 5 as 1983 Wisconsin Act 91, and deposited it in the office of the Secretary of State. I have exercised the partial veto power in three instances as follows:

Part 2: Vetoed Items

Subject Area: PERMIT APPLICATION

Item 1. Permit Application Delay Report

Governor's written objections.

Section 2

S. 227.0105(4). This veto will eliminate language, created by an amendment to the original bill, adding the governor and the secretary of development to the list of recipients of agency reports explaining their failure to make permit application determinations within specific time periods. The effect of this veto will be to require that such reports be sent to the permit information center only.

Permit applicants and the permit information center should have access to and strong backing from the Administration. However, it is important that such access and backing amount to more than mere paper-shuffling. The failure of an agency to make a determination on a permit application in a timely manner can be brought to the secretary's and the governor's attention in a meaningful way under s. 560.42(1) of the bill, which deals with permit expediting. In addition, to ensure that the objective of this provision is met, I have directed Lt. Governor Flynn to submit monthly reports to my office summarizing agencies' compliance with the permit processing deadlines. Because permit processing experiences will be summarized by agency in this report, my office will be able to see immediately if a particular agency is continually running over its deadlines. We can then take appropriate actions, through the Cabinet and the Lt. Governor, to correct the situation.

Cited segments of October 1983 Special Session Assembly Bill 5:

SECTION 2. 227.0105 of the statutes is created to read:
227.0105 Rules to include time period.

Vetoed in Part

(4) If an agency fails to review and make a determination on a permit application within the time period specified in a rule or law, for each such failure the agency shall prepare a report and submit it to the secretary of development, the governor and the permit information center within 5 business days of the last day of the time period specified, setting forth all of the following:

Subject Area: PERMIT APPLICATION

Item 2. Annual Report/Advocacy Services

Governor's written objections.

Section 5

S. 560.42(5). This section of the bill establishes two different deadlines for the permit information center to submit an annual report to the Legislature. The veto will clarify the reporting requirement and set a deadline of July 1, 1985 for submitting the first report, with subsequent annual reports submitted on January 1 of each year.

S. 560.42 (2m). This section of the bill requires the permit information center to provide advocacy services to permit applicants, including monitoring the application approval process and pursuing statutory and administrative remedies in cases where agencies fail to fulfill permit approval responsibilities.

I have left intact that section of the bill which requires the permit information center to monitor the application approval process and to act as advocates during that process. However, I have deleted that part of the bill which in effect requires the Department of Development to involve itself on behalf of individual businesses in pursuing statutory and administrative remedies. This provision could have the effect of slowing down the permit process through lengthy litigation and administrative proceedings. This is contrary to the intent of the legislation, which is to expedite and streamline the permitting process.

In any event, the two-person staff of the center will be hard pressed to fulfill all of its other responsibilities under the bill, much less take part in lengthy adversarial processes. I am persuaded that the center can best fulfill its primary functions as a source of information and an expeditor of the permitting process without having the added burden of intervening in legal proceedings.

Cited segments of October 1983 Special Session Assembly Bill 5:

SECTION 5. Subchapter III of chapter 560 of the statutes is created to read:

560.42 Responsibilities.

(5) ANNUAL REPORT.

Vetoed in Part

(am) Permit simplification. Based on the experience of the center in assisting persons and discussions with regulatory agencies, the center shall submit on or before January 1, 1985, and every January 1 thereafter, to the appropriate standing committee of each house of the legislature, as determined by the presiding officer thereof, a report containing recommendations for the legislature, governor, public records and forms board and regulatory agencies concerning all of the following:

560.42 Responsibilities.

(2m) ADVOCACY. The center shall provide advocacy services before regulatory agencies on behalf of permit applicants. These services shall include:

Vetoed in Part

(a) Monitoring the application approval process to ensure that permits are granted in the shortest amount of time possible consistent with the substantive requirements established by rule or law.

Vetoed in Part

(b) The pursuit of any available statutory or administrative remedies in the event that a regulatory agency fails to meet any of its responsibilities pertaining to approval of a permit.

Vetoed in Part

**October 1983 Special Session Assembly Bill 7 (1983 Wisconsin Act 92):
Agriculture Promotion and Finance**

The Assembly passed October 1983 Special Session Assembly Bill 7 (as amended by Assembly Amendments 1, 5, 8, 9, 15, 16, 17, 1 to 17, 19, 20, 21) by a vote of 96 to 2, A.J. 10/27/83, p. 554. The Senate, in turn, adopted Senate Amendments 6, 7, 8 and 1 to 8 on voice votes, S.J. 10/28/83, p. 502, and concurred in the bill, as amended, by a vote of 28 to 5, S.J. 10/28/83, p. 502. The Assembly then concurred in Senate Amendments 6, 7, and 8 on voice votes, A.J. 10/28/83, p. 572.

October 1983 Special Session Assembly Bill 7 was vetoed in part and approved in part, and the part approved became 1983 Wisconsin Act 92, published in the *Wisconsin State Journal* on 11/16/83.

Part 1: Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I have approved Special Session Assembly Bill 7, as 1983 Wisconsin Act 92, and deposited it in the office of the Secretary of State. I have exercised the partial veto power in one instance.

Part 2: Vetoed Items

Subject Area: DAIRY PRODUCTS

Item 1. Dairy Products for Juvenile Institutions and an Appropriation

Governor's written objections.

Sections 1p and 1q. This veto deletes Sections 1p and 1q of the bill. These sections created an appropriation under the correctional services program in the Department of Health and Social Services. The appropriation was intended to be used to offset the additional expense to correctional institutions of purchasing dairy products in compliance with a provision in the original bill prohibiting the use of non-dairy products in state institutions. The non-dairy product prohibition was eliminated from the bill during the legislative process; however, the appropriation was retained through an oversight.

Cited segments of October 1983 Special Session Assembly Bill 7:

SECTION 1p. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated.

	1983-84	1984-85
20.435 Health and social services, department of		
(3) CORRECTIONAL SERVICES		Vetoed in Part
(as) Dairy products for juvenile correctional inst. GPH A	10,000	10,000

SECTION 1q. 20.435 (3) (as) of the statutes is created to read:
20.435 (3) (as) *Dairy products for juvenile correctional institutions.* The amounts in the schedule to purchase dairy products for juvenile correctional institutions. In this paragraph, "dairy products" has the meaning provided under s. 27.48 (1) (a).

1983 Assembly Bill 173 (1983 Wisconsin Act 371): Sentencing Guidelines

The Assembly adopted Assembly Substitute Amendment 2 (as amended by Assembly Amendments 1, 2, 1 to 2, 3, 5, 9, 12, 16 and 17) to Assembly Bill 173 by a voice vote, A.J. 3/14/84, p. 951, and passed the bill, as amended, by a vote of 62 to 36, A.J. 3/20/84, p. 985. The Senate, in turn, concurred in Assembly Bill 173 by a vote of 32 to 0, S.J. 4/5/84, p. 860.

Assembly Bill 173 was vetoed in part and approved in part, and the part approved became 1983 Wisconsin Act 371, published in the *Wisconsin State Journal* on 4/30/84.

Part 1: Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I have approved Assembly Bill 173 as 1983 Wisconsin Act 371 and deposited it in the office of the Secretary of State.

Part 2: Vetoed Items

Subject Area: **SENTENCING GUIDELINE**

Item 1. Rules

.....

Governor's written objections.

I am vetoing language in Assembly Bill 173 which provides that "no such rule is applicable unless approved by act of the Legislature."

This provision would delay indefinitely the implementation of sentencing guidelines in Wisconsin. In effect, the bill requires that each specific guideline be enacted by the Legislature, a process which I believe is not appropriate to the objective of this legislation. The purpose of sentencing guidelines is to reduce sentencing disparity while maintaining judicial discretion to determine the appropriate sentence on a case-by-case basis. This is a system which has worked well on a trial basis in several counties in Wisconsin and in other states. It can work throughout the Wisconsin court system if we give it a chance to do so.

If the system of sentencing guidelines fails in the task of reducing sentencing disparity, then legislative action to modify or eliminate the guidelines would be in order, but first the guidelines should be given a chance to work. This partial veto makes that possible.

I will urge the Supreme Court to use the authority given it under Assembly Bill 173 to establish felony sentencing guidelines statewide. If they do so, then I believe it is appropriate that they discharge their responsibility to supervise state courts independent of the executive and legislative branches.

If the Court does not implement the guidelines, then the responsibility will fall to a sentencing commission whose rules would be subject to legislative review according to the process already established under Chapter 227. That process makes much more sense than starting the entire legislative process over again, which is what the bill as passed would require.

Cited segments of 1983 Assembly Bill 173:

SECTION 14: 973.01 to 973.012 of the statutes are created to read:

Vetoed in Part

~~973.011 Sentencing rules; guidelines for judges. If the supreme court has authority under s. 751.13, it may promulgate rules under this section. If that authority has been transferred under s. 751.13 (4) or (7), the sentencing commission shall promulgate rules under this section. No such rule is applicable unless approved by act of the legislature. Any such rules shall provide guidelines for use by judges for sentencing defendants convicted of felonies. The rules shall:~~

Subject Area: SENTENCING COMMISSION

Item 2. Employe Position Transfer

Governor's written objections.

Section 15 — 3 (c) requires the transfer of 3.0 positions from the Supreme Court to the Sentencing Commission if the authority to develop the guidelines is transferred under s. 751.13 (4). This transfer of positions is not appropriate since the 3.0 positions originally appropriated to the Court in Assembly Bill 173 were deleted by Assembly Amendment 17 to Assembly Substitute Amendment 2. This provision transferring those positions to the Commission should have been deleted in Assembly Amendment 17 as well.

Cited segments of 1983 Assembly Bill 173:

SECTION 15. Nonstatutory provisions.

(3)

Vetoed in Part

~~(c) There are transferred 3.0 positions from the supreme court to the sentencing commission. The 3.0 positions include the position of the executive director of the sentencing commission.~~

1983 Assembly Bill 975 (1983 Wisconsin Act 378): Judicial Commission and Ethics Board

The Assembly passed Assembly Bill 975 (as amended by Assembly Amendments 1 and 2), and passed the bill, as amended, by a vote of 74 to 24, A.J. 3/14/84, p. 945. The Senate, in turn, concurred in Assembly Bill 975 by a vote of 20 to 11, S.J. 4/3/84, p. 832.

Assembly Bill 975 was vetoed in part and approved in part, and the part approved became 1983 Wisconsin Act 378, published in the *Wisconsin State Journal* on 4/30/84.

Part 1: Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I have approved Assembly Bill 975 as 1983 Wisconsin Act 378 and deposited it in the office of the Secretary of State.

I am pleased to sign this bill repealing the merger of staffs of the Judicial Commission and State Ethics Board.

Clearly, the Judicial Commission had management problems as reflected in a recent report of the Legislative Audit Bureau. However, those problems should be alleviated by the Commission's expressed intent to implement the Audit Bureau's recommendations.

Part 2: Vetoed Items

Subject Area: ECONOMIC INTEREST STATEMENTS

Item 1. Municipal Judges

.....
Governor's written objections.

I have stricken language from this bill which requires municipal judges to file statements of economic interests twice within a six-month period. Effective July 1, 1984, Wisconsin Act 27 requires municipal judges to file SEI's initially on or before October 31, 1984. The information must be current as of December 31, 1983 and such statements filed again in the spring of 1985. Further, those seeking reelection would have to file statements in December, 1984. All other public officials who are required to file statements are required to file annually.

The partial veto accomplishes the following:

1. Avoids municipal judges' having to file statements of economic interest twice within six months.
2. Prevents the Ethics Board's having to seek from municipal judges statements of economic interest containing relatively stale information (information from 1983 to be filed by October 31, 1984).
3. Forestalls a requirement that certain candidates for reelection to the office of municipal judge file two statements within 60 days of each other.
4. Eases an administrative burden on the Ethics Board.
5. Gives the 1985 Legislature an opportunity to improve the law's enforcement mechanisms prior to the filing requirements' imposition.

.....
Cited segments of 1983 Assembly Bill 975:

SECTION 10. 1983 Wisconsin Act 27, section 2016~~SS~~, is repealed.

Vetoed in Part

1983 Assembly Bill 595 (1983 Wisconsin Act 410): Groundwater Management

The Assembly adopted Assembly Substitute Amendment 1 (as amended by Assembly Amendments 1; 2; 3; 4; 6; 7; 1, 2, 3 and 4 to 7; 14; 2 to 14; 19; 20; 29; 1 to 29; 33; 35; 40; 43; 58; 1 to 58; 61; 1 to 61; 62; 64; 1 to 64; 70; 1 to 70; 71; 72; 74; 75; 77; 78; 86; 1 to 86; 87; 1 to 87) to Assembly Bill 595 by a vote of 92 to 5, A.J. 3/7/84, p. 893, and passed the bill, as amended, by a vote of 91 to 6, A.J. 3/13/84, p. 919. The Senate, in turn, adopted Senate Substitute Amendment 1 (as amended by Senate Amendments 2, 5, 7, 1 to 7, 8, 9, 10, 14, 15, 16, and 19) to Assembly Bill 595 by a voice vote, S.J. 3/28/84, p. 801, and concurred in the bill, as amended, by a vote of 29 to 2, S.J. 3/28/84, p. 801. The Assembly then concurred in Senate Substitute Amendment 1 by a voice vote, A.J. 4/4/84, p. 1130.

1983 Assembly Bill 595 was vetoed in part and approved in part, and the part approved became 1983 Wisconsin Act 410, published in the *Wisconsin State Journal* on 5/10/84.

Part 1: Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I have approved Assembly Bill 595 as 1983 Wisconsin Act 410 and deposited it in the office of the Secretary of State.

Part 2: Vetoed Items

Subject Area: GROUNDWATER PROTECTION

Item 1. Animal Waste Management

Governor's written objections.

Sections: 1r, 18m, 24q in part, 100m, 2102

I am vetoing provisions added to the groundwater protection bill which transfer all animal waste management responsibilities to the Department of Agriculture, Trade and Consumer Protection (DATCP) and prohibit the Department of Natural Resources' (DNR) involvement in the program. These provisions would undermine a comprehensive agreement for administering the animal waste management program. That agreement combines the DATCP's sensitivity to the needs of farmers with the DNR's expertise in monitoring and maintaining water quality. This cooperative agreement resulted from over a year of hearings and discussions among DATCP, DNR, farm groups, environmentalists, and legislators. The transfer of all program responsibilities to DATCP, after the cooperative agreement has been put in place, would result in confusion, duplication, and further delays. In short, the agreement should be given time to work before being prematurely replaced.

I believe the program will be more efficient under the cooperative agreement and, more importantly, will provide farmers with consistent and reasonable advice from both departments. The bill provides that the animal waste program is totally transferred to DATCP, and DNR is prohibited from any involvement, except in cases where water pollution is caused by animal waste runoff. Imagine the frustration of a farmer with an animal waste runoff problem who would be forced to sort out conflicting advice from two state agencies, or review plans to control pollution which meet one agency's standards but not others'. The existing agreement requires DNR, DATCP and county staff to cooperate and work with farmers, to ensure that the farmers receive consistent advice.

Placing a water quality program in DATCP would result in confusing, overlapping, and needlessly expensive responsibilities between the two departments. An additional 6.5 staff positions would be necessary because DATCP lacks expertise in technical water quality evaluation. This would duplicate an existing capability in the DNR. Coordination with other DNR water programs would be reduced, resulting in less effective expenditures for water resource protection and cleanup. Every other state in the midwest has given its water quality control agency a lead role in animal waste pollution programs, and I believe Wisconsin should follow that lead.

Since our promulgation of DNR's animal waste rules, the interest in this program has been very high. Over 50 counties have already expressed interest in working with DNR to resolve animal waste pollution problems. A number of them have already assisted in investigations of water quality problems with DNR and are working with farmers to develop corrective measures. Mandatory regulations will only apply to the approximately fifty farms in the state which have over 1,000 animal units. The vast majority of remaining farms and feedlots will be included in the program only if a complaint is received from nearby landowners. If a significant pollution problem is identified, the owner may work with county or DATCP staff to correct the problem. Up to two years is allowed to install pollution controls. If appropriate corrective action is taken, DNR's only contact with a farmer will be the initial investigation. However, if all agencies agree that a problem exists and pollution is not adequately controlled, DNR may require compliance. I expect this type of action will be rare.

The veto will return the animal waste program to the conditions set out in the January memorandum of understanding between DNR and DATCP. However, my Executive Order will alter that procedure in two ways. First, under the existing agreement DNR would investigate animal waste complaints to determine if a significant pollution problem exists. DATCP or county staff would have the option to participate in the on-site investigation. My Order will direct both agencies to develop procedures which will ensure that DATCP or county staff accompany DNR staff for all investigations. Often county staff will already know the farmer and can readily answer questions about the nature of the animal waste problem and alternative controls which could reduce or eliminate pollution using practical farm management practices.

Second, under the existing agreement DNR makes the final judgment about which controls should be installed to reduce pollution on farms where significant problems are identified. My Executive Order will continue DATCP and county Land Conservation Committee involvement and also include the State Land Conservation Board in choosing appropriate pollution controls. The county will recommend controls to the DNR. In the event that the county and DNR do not agree on which practices are needed to control water quality problems, the Secretary of DNR is required to seek the advice of the Land Conservation Board before making a final decision. Further, if local staff and DNR disagree, the Land Conservation board, which is composed of representatives from the farm community, local officials and the Secretaries of DATCP, DNR and DOA, will provide DNR with its recommendation. Additional oversight will be provided by a report to be prepared by the LCB analyzing the first year of the program's operation.

The combination of my veto and Executive Order restores and improves the cooperative agreement between DATCP, DNR and the counties. These changes will make full and effective use of each agency's expertise and sensitivity, as well as respond to the concerns that the program have a balanced decision-making process.

Cited segments of 1983 Assembly Bill 595:

SECTION 1i. 15.137 (1) of the statutes is created to read: Vetoed in Part
 15.137 (1) ANIMAL WASTE MANAGEMENT COUNCIL. There is created in the department of agriculture, trade and consumer protection an animal waste management council consisting of 10 members representing environmental, agricultural and other interests and having a demonstrated interest in and knowledge of animal waste management to advise the department regarding the development and implementation of the animal waste management program created under ss. 92.20 to 92.30. The council shall be appointed by and shall serve at the pleasure of the secretary of the department.

SECTION 18m. 59.872 of the statutes is created to read: Vetoed in Part
 59.872 Animal waste management. A board may assume certain administrative functions under the animal waste management program created under ss. 92.20 to 92.30. These functions include the investigation of complaints and the provision of technical and other assistance. Before a board may exercise these administrative functions, the board shall enter into an agreement with the department of agriculture, trade and consumer protection and the assumption of these functions is required to be approved by that department. If the board assumes these administrative functions, it shall assign responsibility for these functions to the land conservation committee.

SECTION 24q. Subchapter II of chapter 92 of the statutes is created to read:

92.20 Name. Sections 92.20 to 92.30 are known and may be cited as the "animal waste management law."

92.21 Legislative findings, purpose. (1) The legislature finds that improper management of animal wastes contributes to the pollution of the waters of the state and that regulation of animal waste management is necessary to achieve state water quality goals and standards. The legislature further finds that necessary regulation of animal waste management can be most effectively conducted by the department working in close cooperation with the department of natural resources.

(2) The purpose of the animal waste management program is to direct the department to promulgate and enforce rules necessary to regulate management of animal waste in the interest of meeting state water quality goals and standards, and to bring the state into compliance with the requirements of the federal clean water act, 33 USC 1251 to 1376, and rules adopted under that act as 40 CFR 122.54 and 40 CFR 412.

92.22 Definitions. In this subchapter unless the context requires otherwise:

- (1) "Council" means the animal waste management council created under s. 15.137 (1).
- (2) "Department" means the department of agriculture, trade and consumer protection.
- (3) "Waters of the state" has the meaning specified under s. 144.01 (19).

92.23 Department authority. (1) The department shall develop and implement an animal waste management program to minimize the pollution of the waters of the state caused by animal wastes and to meet state and federal water quality goals and standards.

(2) The department shall promulgate rules governing implementation of ss. 92.20 to 92.30 and 92.36 to 92.40 and necessary for the efficient administration and enforcement of those sections. These rules shall be consistent with the state requirements for the pollutant discharge elimination system under ch. 147. These rules shall provide for the coordination of ss. 92.20 to 92.30 with the Wisconsin farmers program fund under ss. 92.32 and 92.34.

(3) The department may investigate complaints concerning the pollution of the waters of the state by animal wastes and possible violations of this subchapter and rules adopted or orders or permits issued under this subchapter.

(4) The department may prepare guidelines and technical assistance materials for the purpose of aiding persons in handling, storage and disposal of animal waste to meet the purposes of this subchapter. The department shall cooperate with the university of Wisconsin-extension in the preparation and distribution of these materials.

(5) The department may issue notices of discharge and may issue, enforce, and revoke orders and permits to prevent or abate the pollution of the waters of the state.

(6) In administering and enforcing this subchapter, the department has all the powers and authority vested in it under ch. 93.

92.24 Animal waste management council. The department shall consult with the council in the promulgation of rules under this subchapter and in the preparation of guidelines and technical assistance materials for aiding persons in the handling, storage and disposal of animal waste.

92.25 Interagency coordination. The department shall enter into an agreement with the department of natural resources to coordinate the animal waste management program with the pollutant discharge elimination system under ch. 147, the nonpoint source water pollution abatement program under s.

VETOED

~~144.25 and other related programs administered by the department of natural resources. The agreement shall include a mechanism for ensuring that water quality information and standards developed by the department of natural resources are integrated into the animal waste management program.~~

~~92.26 Injunctive relief. In addition to or in place of any other penalty or remedy provided under ss. 92.20 to 92.40, the department may initiate an action in circuit court for a temporary or permanent injunction to prevent, restrain or enjoin a violation of ss. 92.20 to 92.40 or any rule, order or permit issued under ss. 92.20 to 92.30.~~

~~92.40 Penalties. Any person who violates ss. 92.20 to 92.30 or any permit, rule or order issued under ss. 92.20 to 92.30 shall forfeit not less than \$100 nor more than \$500. Any person who knowingly violates ss. 92.20 to 92.30 or any permit, rule or order issued under ss. 92.20 to 92.30 may be fined not less than \$500 nor more than \$5,000 or imprisoned not more than one year in the county jail or both. Each day of violation constitutes a separate offense.~~ Vetoed in Part

Vetoed in Part

~~SECTION 100m. 149.31 of the statutes is created to read:~~

~~149.31 Animal waste management. The department may not promulgate rules under this chapter regulating management of animal waste. The department shall cooperate with the department of agriculture, trade and consumer protection in the development and the implementation of the animal waste management program created under ss. 92.20 to 92.30. The department may petition the department of agriculture, trade and consumer protection to promulgate rules to ensure that the purposes of the animal waste management program are being achieved. This section does not affect the authority of the department to act under other statutes and rules or its authority to issue and enforce orders relating to abatement of animal waste pollution under other statutes and rules.~~ Vetoed in Part

Vetoed in Part

~~SECTION 2102. Appropriation changes, agriculture, trade and consumer protection. The appropriation to the department of agriculture, trade and consumer protection under section 20.115 (7) (a) of the statutes, as affected by the acts of 1983, is increased by \$85,100 for fiscal year 1984-85 to implement and administer the animal waste management program and to fund 6.5 FTE GPR positions associated with this law.~~ Vetoed in Part

Vetoed in Part

Subject Area: GROUNDWATER PROTECTION

Item 2. State Environmental Repair Fund

.....

Governor's written objections.

Section 63 in part

I am vetoing a provision in the groundwater protection bill which prohibits the use of the state environmental repair fund at sites which receive funds from the federal superfund. Both funds are intended for investigation and clean-up of disposal sites which are polluting ground or surface water and posing a serious threat to public health. However, prohibiting the use of state funds at sites receiving federal grants may restrict comprehensive clean-up efforts. If additional work is necessary beyond what is eligible under the federal program, state action would not be possible.

Due to the wide variety of pollution problems which can threaten public health and uncertainty about the extent of federal clean-up efforts, I believe it is unwise to rule out the possibility of state action at sites which receive federal superfund grants. A provision which prohibits the Department of Natural Resources from duplicating actions which are eligible for federal payments remains in the bill.

Cited segments of 1983 Assembly Bill 595:

SECTION 63. 144.442 of the statutes is created to read:

144.442 Environmental repair.

(10) RELATION TO OTHER LAWS. The department shall coordinate its efforts under this section with the federal environmental protection agency acting under the comprehensive environmental response, compensation and liability act, 42 USC 9601, et seq. The department may not duplicate activities or efforts of the federal environmental protection agency if such duplication is prohibited under 42 USC 9601, et seq. The department may not expend funds for environmental repair, other than the state cost share, at sites or facilities which will receive funds under 42 USC 9601, et seq.

Vetoed in Part

Subject Area: GROUNDWATER PROTECTION

Item 3. Groundwater Coordinating Council

Governor's written objections.

Sections 2 in part, 2038(9)(a) in part and (b) in part

I am vetoing a requirement that a member of a local health department be appointed to the groundwater coordinating council because the council is designed to share information between state agencies involved in implementing groundwater programs established by the bill. In the early stages of program development, local agencies will have little involvement and the interests of local health officials can be represented by the Department of Health and Social Services.

Cited segments of 1983 Assembly Bill 595:

SECTION 2. 15.347 (13) of the statutes is created to read:

15.347 (13) GROUNDWATER COORDINATING COUNCIL.

(b) Members.

Vetoed in Part

~~9. One person who is a member of a local health department under s. 140.09, appointed by the governor to represent local health departments.~~

Vetoed in Part

(d) Terms. Members appointed under par. (b) 8 and 9 shall be appointed to 4-year terms.

SECTION 2038. Nonstatutory provisions; natural resources.

Vetoed in Part

(9) GROUNDWATER COORDINATING COUNCIL; INITIAL APPOINTMENTS. (a) Notwithstanding section 15.347 (13) (d) of the statutes, as created by this act, the initial member appointed to the groundwater coordinating council under section 15.347 (13) (b) 8 of the statutes, as created by this act, shall be appointed for a term ending on July 1, 1987, and the initial member appointed to the groundwater coordinating council under section 15.347 (13) (b) 9 of the statutes, as created by this act, shall be appointed for a term ending on July 1, 1985.

Vetoed in Part

(b) Following initial appointments under paragraph (a), members appointed to the groundwater coordinating council under section 15.347 (13) (b) 8 and 9 of the statutes, as created by this act, shall serve for the terms prescribed under section 15.347 (13) (d) of the statutes as created by this act.

Subject Area: GROUNDWATER PROTECTION

Item 4. Site Cleanup Payments

Governor's written objections.

Section 9 in part

I am vetoing a provision in the groundwater bill which limits site clean-up payments to only solid and hazardous waste disposal facilities. Many dangerous waste spills or old landfill sites which have never been licensed would be excluded under this provision. This veto would allow clean-up funds to be used at any site or facility which poses a serious threat to public health or the environment.

Cited segments of 1983 Assembly Bill 595:

SECTION 9. 20.370 (2) (cn), (dr), (ds), (dt), (du), (dv) and (dw) of the statutes are created to read:
20.370 (2)

(dr) *Solid waste management — environmental repair fund.* From the environmental repair fund, the amounts in the schedule for the purpose of administering a program of environmental repair of ~~solid and hazardous waste disposal~~ facilities under s. 144.442. **Vetoed in Part**

Subject Area: GROUNDWATER PROTECTION

Item 5. Waste Disposal Facilities Monitoring

Governor's written objections.

Section 45 in part

I am vetoing a provision which allows the Department of Natural Resources to require monitoring only at non-approved but licensed waste disposal facilities. This veto will allow the department to require monitoring at any facility which is no longer in operation. Many disposal sites which were never licensed could be serious threats to public health or the environment. If problems exist, the DNR should be able to require monitoring to determine the nature and extent of pollution.

Cited segments of 1983 Assembly Bill 595:

SECTION 45. 144.44 (4) (f) and (g) of the statutes are created to read:
144.44 (4) (f) *Monitoring requirements.*

3. The department may require by special order the monitoring of a ~~nonapproved~~ facility, as defined under s. 144.442 (1) ~~(c)~~, which is no longer in operation. **Vetoed in Part**

4. If the owner or operator of a ~~nonapproved~~ facility, as defined under s. 144.442 (1) ~~(c)~~, is not a municipality, the owner or operator is responsible for conducting any monitoring requirements ordered under subd. 3. **Vetoed in Part**

Subject Area: **GROUNDWATER PROTECTION**

Item 6. Well Compensation Program Staff Costs

Governor's written objections.

Section 4 in part

I am vetoing \$155,000 in GPR for staff costs associated with the well compensation program in 1983-84. The program will not be organized until the 1984-85 fiscal year, therefore, these funds are not needed earlier.

Cited segments of 1983 Assembly Bill 595:

SECTION 4. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

		1983-84	1984-85
20.370	Natural resources, department of		
(2)	ENVIRONMENTAL STANDARDS		
(cc)	Compensation for well contamination--administration	155,000	Vetoed in Part 155,000
	GPR A		

Subject Area: **GROUNDWATER PROTECTION**

Item 7. Fox River Lock System/Fox River Management Commission

Governor's written objections.

Section 18f in part

I fully support efforts to continue the operation of the Fox River lock system. This provision in the groundwater protection bill establishes a Fox River Management Commission to negotiate with the U.S. Army Corps of Engineers for the continued operation of the locks after federal support ends with the close of the 1984 boating season.

The locks of the Lower Fox River have significant historic, economic and recreation value for all the citizens of Wisconsin. Without timely action by the state, this asset could be lost for all time. However, the ownership, operation and maintenance of the Fox River lock system is an important responsibility which should be undertaken cautiously in three phases.

During the 1984 first phase, the U.S. Army Corps of Engineers will continue to operate the system, as it has for over 100 years, while the Wisconsin Department of Natural Resources will

monitor the operation to acquire expertise and identify possible problem areas. During the 1985 second phase, the Fox River Management Commission can operate the system under a lease agreement, though the title will remain in the federal government. The third phase would allow transfer of ownership to the state and authorize substantial maintenance projects to rebuild the locks. I believe this phase should not be authorized until the first two phases have been successfully completed.

My veto does not affect the first two phases. However, it does withhold authority for final transfer of ownership to the state and the undertaking of major maintenance projects. The more ambitious third phase should not be authorized until the Fox River Management Commission has studied alternative management and funding arrangements and short-term operation has been successfully accomplished. Without question, it would be premature to authorize the transfer of ownership at this time.

.....
Cited segments of 1983 Assembly Bill 595:

SECTION 18f. 30.93 of the statutes is created to read:

30.93 Fox river management. (1) DEFINITIONS.

(c) "Long-term agreement" means any agreement which involves the ~~retention of ownership rights by this state of the~~ continuation of leasing obligations by this state for, or the continuation of responsibility for the management, operation ~~or maintenance~~ by this state of any Fox river locks and facilities beyond October 15, 1985. **Vetoed in Part**

(d) "Short-term agreement" means any agreement which does not involve the retention of ownership rights by this state of, the continuation of leasing obligations by this state for, or the continuation of responsibility for the management, operation ~~or maintenance~~ by this state of any Fox river locks and facilities beyond October 15, 1985, and which does not in any other way obligate or restrict the state on or after October 15, 1985. **Vetoed in Part**

(2) AUTHORITY TO NEGOTIATE AND ENTER INTO AGREEMENTS WITH THE FEDERAL GOVERNMENT. (a) *Negotiations.*

1. The leasing by the state of Fox river locks and facilities ~~of the transferring of the ownership of Fox river locks and facilities to the state.~~ **Vetoed in Part**

2. The assumption by the state of responsibility for the management, operation ~~or maintenance~~ of Fox river locks and facilities. **Vetoed in Part**

(3) AUTHORITY TO MANAGE FOX RIVER LOCKS AND FACILITIES. If an agreement is entered into with the federal government, the commission may assume responsibility for the management, operation ~~and maintenance~~ of the Fox river locks and facilities. The commission may charge user fees for services it provides in the management, operation ~~and maintenance~~ of the Fox river locks and facilities. The commission shall prepare a biennial budget which shall be submitted to the department concerning activities to be performed under this subsection. The commission may hire staff and employes to perform activities under this subsection subject to the requirements of s. 16.505. **Vetoed in Part**

1983 Senate Bill 600 (1983 Wisconsin Act 411): High School Graduation Standards

The Senate adopted Senate Substitute Amendment 2 (as amended by Senate Amendments 2, 6, 7, 9, 12, 13, 14 and 15) to Senate Bill 600 by a voice vote, S.J. 3/15/84, p. 724, and passed the bill, as amended, by a vote of 27 to 4, S.J. 3/15/84, p. 724. The Assembly, in turn, adopted Assembly Substitute Amendment 3 (as amended by Assembly Amendments 4, 6, 8, 1 to 8, 10, 11 and 12) to the bill by a vote of 78 to 19, A.J. 4/5/84, p. 1179, and concurred in the bill, as amended, by a vote of 66 to 32, A.J. 4/5/84, p. 1180. The Senate then concurred in Assembly Substitute Amendment 3 by a voice vote, S.J. 4/6/84, p. 878.

1983 Senate Bill 600 was vetoed in part and approved in part, and the part approved became 1983 Wisconsin Act 411, published in the *Wisconsin State Journal* on 5/14/84.

Part 1: Text of Governor's Veto Message

To the Honorable Members of the Senate:

I have approved Senate Bill 600 as 1983 Wisconsin Act 411 and deposited it in the office of the Secretary of State.

Part 2: Vetoed Items

Subject Area: EDUCATION STANDARDS

Item 1. School Board Diploma Information Requirement

Governor's written objections.

1. Section 1m

I am vetoing section 1m and the requirement that school boards participating in the competency testing program must indicate on each high school diploma whether the pupil has passed the tests in each of the basic skill areas. This provision is inequitable because it places a requirement on the 124 districts voluntarily participating in the competency testing program which is not placed on the other 308 non-participating districts. I support the competency testing program and would like to see greater participation by some of the larger school districts. Placing an additional requirement on a voluntary program that less than 30 percent of the school districts are participating in, may discourage future voluntary participation.

Cited segments of 1983 Senate Bill 600:

~~SECTION 1m. 118.30 (3m) of the statutes is created to read: Vetoed in Part
118.30 (3m). If the school board administers the minimum competency tests under this section, the diploma which the school board issues to a pupil graduating from high school shall indicate in a prominent place on its face whether or not the pupil has passed the tests in each of the basic skill areas. A person who graduates from high school without passing the tests may repeat them as often as necessary. If the person passes the tests, the school board shall alter his or her diploma to indicate that the person passed the tests.~~

Subject Area: EDUCATION STANDARDS

Item 2. Competency Test Exemption/Course Requirements

Governor's written objections.

2. Section 2 as it relates to (2)(c), (d) and (e)

I am partially vetoing parts (2)(c), (d) and (e) of section 2. The veto eliminates the requirement that the state superintendent permit school boards to waive the graduation requirements for pupils who have successfully completed a competency test and removes the exceptions for three year high schools. The veto creates language which requires the state superintendent to establish course requirements and to approve school board graduation standards policies.

The competency test exemption is vetoed because the language is too broad and provides opportunities to circumvent the intent of state graduation standards. Further, because the state does not have a mandatory competency testing program, school districts use different competency tests which require varying levels of proficiency. Therefore, successful completion of a competency test could mean something different in each school district and would not necessarily ensure that a student had mastered the full content of a course.

The exemptions for three year high schools is vetoed because state graduation standards should be applied uniformly throughout the state. Section 115.01(2) of the state statutes defines the high school grades as the last four grades of educational work. The graduation standards bill is consistent with the statutes and mandates certain course requirements in the high school grades. I believe all Wisconsin high school students should be afforded equal educational opportunity regardless of whether they attend a three year or a four year high school. I believe that three year high schools should coordinate course offerings and sequences with the lower grades regardless of state graduation standards.

My partial veto gives the state superintendent the authority to establish course requirements with the expectation that these will be minimum quality standards. I do not believe that the state superintendent should establish a rigid and comprehensive state curriculum, but rather that he should, through rule, identify the basic categories of skills and knowledge which should be included in the required courses. State graduation standards will not ensure equal educational opportunity if rules establishing minimum criteria for quality are not required. The authority to approve high school graduation standards policy is given to the state superintendent to make explicit the state's responsibility for proper implementation of graduation standards. The superintendents's approval is governed by specific standards provided in s. 118.33(1)(a). Moreover, it is the clear intent of the bill that the state superintendent delegate the task of certifying compliance with the standards to the school district.

Cited segments of 1983 Senate Bill 600:

SECTION 2. 118.33 of the statutes is created to read:

118.33 High school graduation standards.

(2)

Vetoed in Part

(c) Establish procedures permitting a school board to waive the credit requirements under sub. (1) for a pupil who demonstrates, through successful completion of a competency test, mastery of required courses.

(d) Establish exceptions to the requirements under sub. (1) for high schools which operate a 3-year rather than a 4-year system of high school grades.

(e) Recognize and approve any school board's high school graduation standards policy that is substantially equivalent to the requirements under sub. (1).

Subject Area: EDUCATION STANDARDS

Item 3. Credit Requirement Waiver/Alternative Instructional Programming

Governor's written objections.

3. Section 2 as it relates to (2)(f)

I am vetoing (2)(f) of section 2 which requires the state superintendent to recognize a school board's action to waive credit requirements or to develop alternative instructional programming.

The provision is extremely broad and is vetoed because sufficient authority and guidance is provided elsewhere in the bill for the state superintendent to administer the graduation standards law in a manner which accommodates children with special interests, needs or requirements. I wholeheartedly support alternative programming for children whether they are gifted, disadvantaged or handicapped. And, I encourage all educators to be creative in developing alternative programs and creating the learning environments which will ensure that all children have the opportunity for a quality basic education.

Cited segments of 1983 Senate Bill 600:

SECTION 2. 118.33 of the statutes is created to read:

118.33 High school graduation standards.

(2)

~~(f) Recognize a school board's action to waive the credit requirements under sub. (1) or to develop alternative instructional programming based on an individual pupil's needs or abilities as approved by the school board, the pupil and the pupil's parent or guardian.~~ Vetoed in Part

Subject Area: EDUCATION STANDARDS

Item 4. Physical Education Requirement

Governor's written objections.

4. Section 2 as it relates to (2)(g) and (2m)

I am vetoing (2)(g) and a portion of (2m) in section 2. The veto removes the exemption from the physical education requirement for pupils who participate in interscholastic or intramural athletics. I eliminated this exemption because the language is too general and does not spell out how participation in athletics would be valued and translated into physical education credits. The broadness of the language could have resulted in great disparities across the state. Further, although organized athletics can teach students valuable skills, it is not the same level and quality of physical education instruction that students receive in a traditional physical education class.

Cited segments of 1983 Senate Bill 600:

SECTION 2. 118.33 of the statutes is created to read:

118.33 High school graduation standards.

(2)

~~(g) Provide for an exemption from the requirement of 1.5 credits of physical education for pupils who participate in interscholastic or intramural athletics or other planned programs of physical exercise, as determined by the school board.~~ Vetoed in Part

~~(2m) Each school board operating high school grades may adopt policies granting exemptions from the requirements under sub. (1)(a) to accommodate pupils with exceptional educational interests, needs or requirements, not limited to children with exceptional educational needs, as defined under s. 115.76 (3), if such policies are first approved by the state superintendent~~ Vetoed in Part

~~add to grant exemptions from the requirement of 1.5 credits of physical education for pupils who participate in interscholastic or intramural athletics or other planned programs of physical exercise, as determined by the school board.~~ Vetoed in Part

Subject Area: EDUCATION STANDARDS

Item 5. Exceptional Education Needs, Interests, Requirements

Governor's written objections.

5. Section 2 as it relates to (2m)

I am partially vetoing part (2m) of section 2 so that the state superintendent, instead of each school board, shall adopt policies to accommodate pupils with exceptional educational interests, needs or requirements. The veto is intended to provide a mechanism for children with special needs to satisfy graduation standards in ways which may be different from traditional classroom instruction. While categories of children should not be exempted from graduation requirements, it should be recognized that individuals differ in their ability to meet certain requirements. The responsibility for adopting policies for exceptional children is vested in the state superintendent rather than the school district to provide a more uniform and fair application of the procedures and to ensure that policies are not used as an excuse for not teaching students who are something other than average.

Cited segments of 1983 Senate Bill 600:

SECTION 2. 118.33 of the statutes is created to read:
 118.33 High school graduation standards.

→ (2m) ~~Each school board operating high school grades may~~ adopt policies ~~granting exemptions from~~ ^{Vetoed in Part} the requirements under sub. (1)(a) to accommodate pupils with exceptional educational interests, needs or requirements, not limited to children with exceptional educational needs, as defined under s. 115.76 (3), ~~if such policies are first approved by the state superintendent~~ ← ~~and to grant exemptions from~~ the requirement of 1.5 credits of physical education for pupils who participate in interscholastic or intramural athletics or other planned programs of physical exercise, as determined by the school board. ^{Vetoed in Part}

1983 Assembly Bill 1035 (1983 Wisconsin Act 426): Solid Waste Recycling

The Assembly adopted Assembly Substitute Amendment 1 (as amended by Assembly Amendments 1, 2, 3, 1 to 3, 4, 5, 7, 8, 14, 1 to 14, 17 and 18) to Assembly Bill 1035 by a voice vote, A.J. 3/28/84, p. 1081, and passed the bill, as amended, by a vote of 86 to 7 (with 2 paired), A.J. 3/28/84, p. 1081. The Senate, in turn, concurred in Assembly Bill 1035 by a vote of 31 to 0, S.J. 4/5/84, p. 865.

Assembly Bill 1035 was vetoed in part and approved in part, and the part approved became 1983 Wisconsin Act 426, published in the *Wisconsin State Journal* on 5/14/84.

Part 1: Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I have approved Assembly Bill 1035 as 1983 Wisconsin Act 426 and deposited it in the office of the Secretary of State.

Part 2: Vetoed Items

Subject Area: SOLID WASTE PLANNING

Item 1. Grants

Governor's written objections.

Section 27

I am vetoing Section 27 of Assembly Bill 1035. Current law does not allow solid waste planning grants to be used for hazardous waste or radioactive material disposal. These materials require special handling and are governed by separate federal and state regulations. My veto continues the prohibition.

Cited segments of 1983 Assembly Bill 1035:

~~SECTION 27 (24.784(10)) of the statutes is repealed~~ **Vetoed in Part**

1983 Assembly Bill 540 (1983 Wisconsin Act 484): Election Regulations

The Assembly adopted Assembly Substitute Amendment 1 (as amended by Assembly Amendments 1, 2, 3, 1 to 3, 4, 1 to 4, 5, 2 to 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19, 1 to 19 and 20) by a voice vote, A.J. 2/22/84, p. 748, and passed the bill as amended, by a vote of 68 to 29, A.J. 2/28/84, p. 789. The Senate, in turn, adopted Senate Amendments 2, 3, and 5 by voice votes, S.J. 4/3/84, p. 830, and concurred in the bill as amended, by a vote of 28 to 3, S.J. 4/3/84, p. 831. The Assembly then concurred in Senate Amendments 2, 3 and 5 by a voice vote, A.J. 4/5/84, p. 1157.

Assembly Bill 540 was vetoed in part and approved in part, and the part approved became 1983 Wisconsin Act 484, published in the *Wisconsin State Journal* on 5/17/84.

Part 1: Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I have approved Assembly Bill 540 as 1983 Wisconsin Act 484 and deposited it in the office of the Secretary of State.

Part 2: Vetoed Items

Subject Area: ELECTION BALLOTS

Item 1. Convicted Felons on Ballots/Effective Date

Governor's written objections.

Section 175 (2) in part.

I am vetoing one provision in Assembly Bill 540 which attempted to delay until June 1, 1985 the effective date of a prohibition on convicted felons being placed on a ballot. The language as it stands does not accomplish its purpose of delaying the effective date, which remains at June 1, 1984. If left in place, the conflicting subsection could be a source of confusion to someone reading the law. This technical partial veto does not change the effect of the law, but does help ensure a smooth implementation of the bill's controlling provisions.

Cited segments of 1983 Assembly Bill 540:

SECTION 175. Initial applicability.

(2) Any county supervisor holding office on the effective date of this act specified in SECTION 176 (1) who is not a resident of the supervisory district from which he or she is chosen vacates his or her office on the 30th day commencing after the effective date of this act. ~~The effective date of this section shall be 1/1/1985~~ Vetoed in Part

**1983 Assembly Bill 986 (1983 Wisconsin Act 523):
Counties with Indian Reservations**

The Assembly adopted Assembly Substitute Amendment 1 to Assembly Bill 986 by a voice vote, A.J. 3/27/84, p. 1057, and passed the bill, as amended, by a voice vote, A.J. 3/27/84, p. 1057. The Senate, in turn, concurred in the bill by a vote of 32 to 0, S.J. 4/6/84, p. 876.

Assembly Bill 986 was vetoed in part and approved in part, and the part approved became 1983 Wisconsin Act 523, published in the *Wisconsin State Journal* on 5/18/84.

Part 1: Text of Governor's Veto Message

To the Honorable Members of the Assembly:

I have approved Assembly Bill 986 as 1983 Wisconsin Act 523 and deposited it in the office of the Secretary of State.

Part 2: Vetoed Items

Subject Area: LAW ENFORCEMENT AIDS

Item 1. Aid

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Governor's written objections.

Section 4 in part.

I am vetoing one provision of Assembly Bill 986 which prohibits two counties receiving Cooperative Model Law Enforcement Aids from participating in the Law Enforcement Aids to Counties with Reservations program. Historically, a total of seven counties have participated in this program. Included in these seven counties were two counties restricted by present language. Since there has not been a demonstrated need to restrict the number of applications, all counties eligible for program aids (up to 10 under present allocation) should be able to apply. These law enforcement aids will allow counties with reservations to carry out enforcement responsibilities under Public Law 280.

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Cited segments of 1983 Assembly Bill 986:

SECTION 4. 165.90 of the statutes is created to read:

165.90 Law enforcement aid to counties with Indian reservations. Any county which has a federally recognized Indian reservation within or partially within its boundaries may make annual application in accordance with s. 59.07 (141) to the department of justice to receive aid in the amount of \$7,500 per state fiscal year from the appropriation under s. 20.455 (2) (d) for the purpose of defraying the expense of performing additional law enforcement duties of sheriffs arising by reason of federal legislation transferring jurisdiction over Indian criminal law matters to the state. The county shall obtain the advice of the tribal council as to specific law enforcement needs on the reservation. The application shall include a statement of the tribal council's advice on law enforcement needs and shall specify the proposed law enforcement activities on the reservation for the state fiscal year for which aid is sought. Upon review of the application and, if relevant, an evaluation of the extent to which the proposed law enforcement activities were performed in the previous fiscal year, the department may annually certify a county as eligible to receive funds under s. 20.455 (2) (d). In August of each year, the county board for each county receiving funds under s. 20.455 (2) (d) shall submit a report to the department regarding the performance of the proposed law enforcement activities. A county may ~~not~~ receive funds under s. 20.455 (2) (d) in any fiscal year in which any program within the county receives funds under s. 20.455 (2) (e).

Vetoed in Part