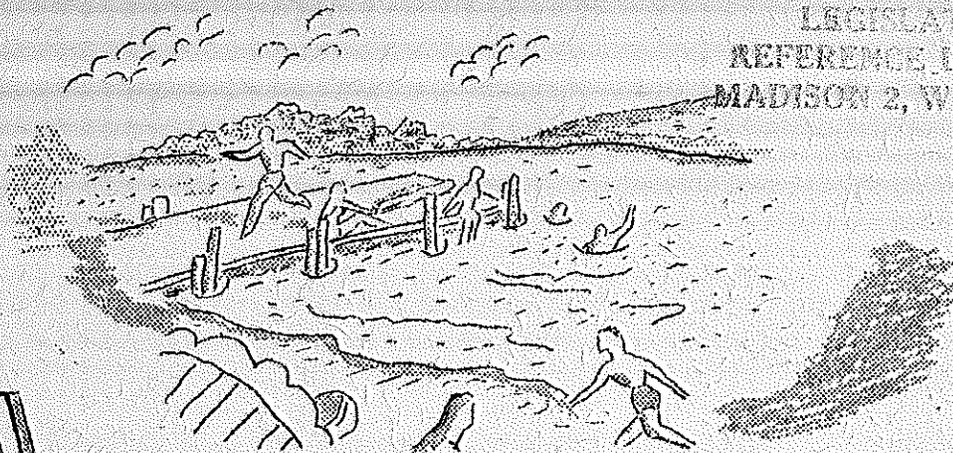
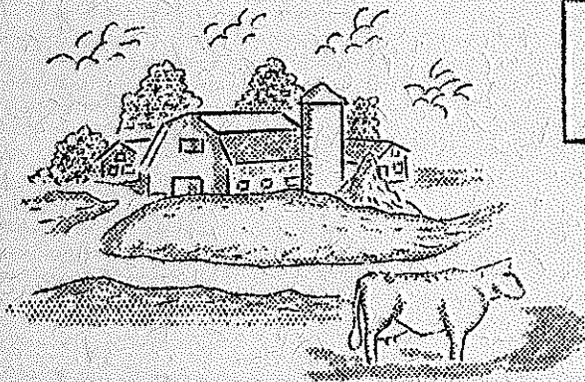
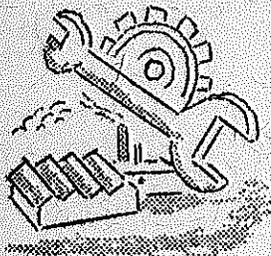


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Implementing The Wisconsin Statutory Provisions Requiring The Use Of Census Data: When Do The 1960 Census Figures Apply To The Wisconsin Statutes.

Prepared by
THE WISCONSIN LEGISLATIVE REFERENCE LIBRARY
State Capitol
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IMPLEMENTING THE WISCONSIN STATUTORY PROVISIONS
REQUIRING THE USE OF CENSUS DATA; WHEN DO THE 1960
CENSUS FIGURES APPLY TO THE WISCONSIN STATUTES*

THE PROBLEM--MANY STATUTES DEPEND ON CENSUS DATA

In order to cope with the continually more complicated governmental affairs of a growing state within the framework of general law--the legislature has had to resort to classification in our statutes. Laws which work well for Milwaukee may not be applicable to the problems of Patch Grove. The result is that scores of classifications have been recited in hundreds of different places in our statutes, mostly based on the federal population census, providing that units of a given population range may or may not do something.

There are classifications of counties "over 500,000, over 300,000, 250,000 or more, over 150,000, over 65,000, over 15,000" etc. There are classifications of cities. Language reciting city classifications in section 62.05 (1) of the statutes declares that "cities of one hundred and fifty thousand population and over shall constitute cities of the first class"; cities ranging from 39,000 to less than 150,000 are second class cities; those numbering 10,000 to less than 39,000 are third class cities; and those cities under 10,000 population are fourth class cities.

Finally, there are the hybrid classifications, linking one or more types of municipality. For a real catchall example note this phrase from section 6.14 (1) of the statutes: "and in every city, village or town of less than five thousand population in counties having a population of three hundred thousand or more...". (See Wisconsin Statutory Citations Relating to Methods of Measuring Population in Political Subdivisions in Wisconsin, Research Bulletin 120, Legislative Reference Library, for a compilation of the hundreds of statutory provisions using population as a measuring stick)

The impact of a new decennial census upon municipal government in Wisconsin is best understood by a glance at some of the laws which hinge upon that population count.

Probably the best known of these is the liquor license "quota" law (s. 176.05 (21) of the statutes) which, since August 27, 1939, has limited all municipalities to issuing only one "Class B" (by the drink) liquor license for each 500 population or fraction thereof; or to the number of such licenses in force on August 27, 1939, or to the number of such licenses in force after the last previous federal census. A newspaper story datelined Waupaca reported on June 23, 1960, that the city council was up in arms because preliminary census figures show Waupaca "had gained only three residents in the 1950-1960 decade," and the nose count only came to 3,924, whereas at least 4,001 are needed to qualify for another liquor license.

Just as eagerly watched by every city are section 20.420 (83) (b) and (84) (b) of the statutes which allocate a larger percentage (25%) of state highway aids and motor vehicle fuel taxes to

communities which top the 10,000 population mark than to the smaller cities and villages (15%).

Any listing of changes wrought in the Wisconsin governmental way of life by the federal census would include:

1. The requirement that every town, city or village with more than 5,000 population shall establish a vocational and adult education board (s. 41.15 (1) of the statutes).

2. Permissive authority for any county board in a county having a population of 150,000 or more to establish a county-wide library system (s. 43.33 of the statutes).

3. The power of civil authorities, except in towns situated in counties with less than 15,000 population, to raze dilapidated buildings and charge the cost of such work as a lien against the property affected (s. 66.05 (1) and (2) of the statutes).

4. The requirement that every city, village and town having a population of 5,000 or more, provide for the permanent registration of voters (s. 6.15 of the statutes).

5. Permission for any city with more than 5,000 inhabitants to construct a public slaughterhouse (s. 66.075 of the statutes).

6. The requirement that second and third class cities shall annually advertise for bids to publish council proceedings while fourth class cities may designate a newspaper without advertising (s. 62.10 (1) and (2) of the statutes).

7. Authority for any city whose population falls below 1,000 to propose reorganization as a village (s. 66.02 (6) of the statutes).

8. Permission for any town with more than 5,000 inhabitants to establish a civil service system for its employes (s. 66.19 (2) of the statutes).

9. The newly created posts of condemnation commissioners are tied directly to the population of the respective counties. Counties with less than 100,000 rate 6 commissioners; counties ranging from 100,000 to less than 500,000 are entitled to 9 commissioners, and counties boasting 500,000 or more people may have 12 condemnation commissioners (s. 32.08 of the statutes).

10. Boards of school directors in cities of the first, second and third classes may launch evening programs, vacation schools, reading rooms, etc., in public school buildings (s. 43.50 of the statutes).

It should be pointed out that cities do not automatically pass from one class to another by the publication of new census data. Section 62.05 of the statutes provides that 3 things must be done:

1. The census must show that a change in classification is required.

2. The necessary changes in government must have been made.

3. The change must have been proclaimed by the mayor and the proclamation published as required by law.

POPULATION DEFINED IN THE WISCONSIN STATUTES

As an aid to interpreting this miasma of classification, the word population is defined under section 990.01 (29) of the statutes as follows:

"'Population,' when used in connection with a classification of municipal corporations for the exercise of their corporate powers or for convenience of legislation, means the population according to the last national census."

The difficulty lies in the fact that there is no single document issued by the Bureau of the Census which is considered the census report. There are a series of reports which are progressively more refined which start coming out about 6 months after the census begins. The question is whether each of these shall be used in turn until a better one comes out or whether the whole decision shall be held up until a particular document which is reasonably or completely final is published.

Thus the definition of population in section 990.01 of the statutes is inadequate.

FEDERAL LAW SILENT ON EFFECTIVE DATE OF CENSUS DATA

What does the federal law say about the effective dates of the census data? April 1 was the date as of which the head count was made of you and your household in 1960.

Under authority set forth in 13 U. S. C. 141 (a):

"The Secretary (of Commerce) shall, in the year 1960, and every ten years thereafter, take a census of population, unemployment, and housing (including utilities and equipment) as of the first day of April, which shall be known as the census date."

The Secretary of Commerce is also directed to complete his population count for the purpose of reshuffling congressional representation by December 1, 1960, in the following language:

"The tabulation of total population by States as required for the apportionment of Representatives shall be completed within eight months of the census date and reported by the Secretary to the President of the United States." (13 U. S. C. 141 (b))

These statutes are based on Article I, section 2, paragraph 3, of the Federal Constitution, which avers that "representatives and direct taxes shall be apportioned among the several states" and requires the taking of the decennial census in these words:

"The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct."

INTERPRETATION OF EFFECTIVE CENSUS DATE IN WISCONSIN

Wisconsin has no clear-cut statute or supreme court decision to point the way to an answer to the question--when does the new census take effect? A number of bitterly fought liquor license quota cases have been carried to the State Supreme Court, but none with a square question as to the effective date of the census. But on January 25, 1952, a painstaking Attorney General's opinion (41 Atty. Gen. 18) was written on this subject.

At that time section 20.49 (8) of the statutes (the predecessor of s. 20.420 (83) which allocates highway aids as aforementioned) allotted \$130 per mile of local streets to cities "with a population not more than 10,000 by the last federal census", set a figure of \$260 per mile for cities with a population of more than 10,000 but not more than 36,000, and \$390 per mile for cities with a population of more than 36,000 but not more than 150,000, and declared that such payments were to be made to such cities "annually on March 10."

The State Highway Commission in making its allotments of March 10, 1951, had only a preliminary 1950 census report to steer by. That preliminary census report showed that Eau Claire was less than 36,000 and that Two Rivers, counted at slightly more than 10,000 in 1940, had apparently slipped to slightly less by 1950. On the basis of this preliminary report, Eau Claire received highway aids in the spring of 1951 at the \$260 rate per mile and Two Rivers got an allotment at the \$130 per mile rate. But the final 1950 census report showed a different picture. Eau Claire on the final report was listed at 36,058 population and Two Rivers at 10,243.

The Attorney General addressed himself to the following problem posed by the Highway Commission:

"You desire to know whether the action which you took should be allowed to stand or whether a mistake has been made and corrective action necessary."

Searching the federal code, the Attorney General found only one provision not cited above. This read:

"The period of three years beginning the 1st day of January in the year 1930 and every tenth year thereafter shall be known as the decennial census period, and the reports upon the inquiries provided for ... shall be completed within such period..."

Today, that paragraph has been revoked and no longer is part of federal statutes covering the census.

He then examined the official reports from the Bureau of the Census on file with the Secretary of State of Wisconsin.

The first, marked "preliminary" was dated September 11, 1950, and as part of the caption, said:

"The preliminary population counts shown below represent the number of persons enumerated in the State, each county, and each incorporated place of 1,000 or more, but not the final verified population totals."

The second was dated August 17, 1951 (almost a year later) and, as part of the caption, stated:

"This is one of a series of reports representing final population figures for selected areas in each State. In this series, reports are numbered alphabetically by States. Additional reports will be issued as final figures for other States become available."

The Attorney General then drew this conclusion:

"It is my opinion that the highway commission was justified in basing the allocation of the funds on the preliminary count in the bulletin issued September 11, 1950. This bulletin was official since it was issued pursuant to legal authority. It represented the most accurate federal census record available on March 10, 1951 and as a matter of fact it only varied from the final figure by 5 per cent for the entire state ... While it is true that the later bulletin was deemed final by the director of the census, there is nothing in the law which would prevent him from issuing further bulletins which might correct possible errors in the August 17, 1951 bulletin. Apparently such corrections could be legally issued, at least during the 3-year 'decennial census period'."

It should be mentioned at this point that although that old language establishing a 3-year "decennial census period" has been dropped from federal statutes, the Secretary of Commerce under s. 13 U. S. C. 193 today has ample authority to collect statistics "in advance of, in conjunction with, or after the taking of each census...related to ...the initiation, taking or completion thereof."

The Attorney General then bulwarked his decision with a quotation from Corpus Juris Secundum, a leading law encyclopedia, which states: "'An authorized announcement of a federal census is official, even though not final, and expressly subject to correction.' 14 C. J. S. 103." He further stated:

"It was reasoned in (Holcomb v. Spikes (1921, Tex.), 232 S. W. 891) this (leading) decision that since the federal census law did not contain any provision as to when an official census should take effect, and since the only method provided to inform the public was by publication of bulletins and reports, a bulletin legally published was an official pronouncement of which the public and all officials might take notice.

"All other more recently decided cases that I could find followed this same rule."

As to the particular problem with which he was confronted, the Attorney General made this determination:

"In regard to the problem connected with the city of Eau Claire, I cannot see in any event that they would have any claim for a larger amount. It is immaterial in their case whether the highway commission used the 1940 census or the preliminary report for 1950, since both of these put the city in the same category (\$260 per mile). The so-called 'final' census report was not issued until late in 1951 and it would have been illegal for the highway commission to delay the allocation of funds until another time. Further, the statute makes no provision for a revision of the allocation because of issuance of the revised census figure.

"It is unfortunate for the city of Two Rivers that the preliminary count placed them in a lower bracket than the final figures did (\$130 per mile instead of \$260), but such a situation seems unavoidable because of the arbitrary population figures used in the statute."

Since the opinion had worked to deprive both Eau Claire and Two Rivers and perhaps some other cities on the population borderline of state highway financial aids, it is not surprising that the first change made in what was then section 20.49 of the statutes by the 1953 Legislature was the addition, by Chapter 38, Laws of 1953, effective retroactively to cover allotments from revenues received during fiscal 1950-51, of then section 20.49 (11) (d) of the statutes which amply provides for computation of overpayments and underpayments and subsequent readjustment of such highway aids to cities when the "complete tabulation" of the census is available. This is now section 20.420 (83) (d) of the statutes.

Despite the fact that the legislature did not care for the final effect of this Attorney General opinion on moneys due cities, its careful analysis of what effective date may be given census reports still stands as the sole authority Wisconsin can point to when the attempt is made to interpret our census-based statutes.

The citation from Corpus Juris Secundum on which the Attorney General based his decision has been renumbered (it is now 14 C. J. S. 2) but remains otherwise unchanged.

The same section also recites:

"It is generally held that a census, after it has been officially determined or ascertained and published does not relate back and give the fact force as of the date of which the census was to be taken (here citing 2 Pennsylvania and one Iowa case as authority); but it has also been held that a census, being the enumeration of the population and not the announcement of the result, becomes effective as of the date taken." (One Tennessee case is cited in support of this contrary view)

THE WISCONSIN ANSWER

The legislature acted speedily to overturn the effect of this Attorney General's opinion on highway aid allocations, plugging the loophole which had been pointed out; namely that "...the statute makes no provision for a revision of the allocation because of issuance of the revised census figure." But the balance of that opinion still stands as the best, and apparently the only, expression of a Wisconsin viewpoint as to when the national census takes effect. It has stood for 8 years without repudiation either in the courts or by the legislature and it has not been superseded by any more recent expression on the subject by either the legislative or judicial branches.

Therefore, in Wisconsin, at least as far as the distribution of highway aids is concerned, a federal census apparently takes effect whenever an official announcement of census results, whether final or not, is published.

OFFICIAL REPORTS FILED WITH SECRETARY OF STATE

The Census Bureau provides the Secretary of State with official reports, and these reports are received by the latter before most people get them.

The preliminary report showing the total state census and the census of each county and each incorporated place of 1,000 or more was received by the Secretary of State on September 11 in 1950 and September 12 in 1960.

The population report for the state which is considered final was received August 17, 1951, almost 11 months later.

Should both of these reports be used as the basis of computation under the Wisconsin statutes or should only the second report be used? In part this decision probably should depend upon the relative accuracy of the preliminary report. A comparison of the preliminary and final reports of the 1950 census reveals the following information.

TABLE I. Comparison of Population Data in Preliminary Publication of September 1950 and Final Count of August 1951.

Note: A minus sign (-) denotes decrease.

Area	Preliminary count, pub. Sept. 11, 1950	Final count published August 1951	Increase of final over preliminary count
STATE total . . .	3,421,316	3,434,575	13,259
Adams County	7,897	7,906	9
Adams city	1,420	1,425	5
Ashland County	19,387	19,461	74
Ashland city	10,594	10,640	46
Mellen city	1,300	1,306	6
Barron County	34,683	34,703	20
Barron city	2,351	2,355	4
Chetek city	1,576	1,585	9

Area	Preliminary count, pub. Sept. 11, 1950	Final count published August 1951	Increase of final over pre- liminary count
Barron County (Cont.)			
Cumberland city ..	1,871	1,872	1
Rice Lake city ...	6,911	6,898	-13
Bayfield County	13,718	13,760	42
Bayfield city	1,149	1,153	4
Washburn city	2,078	2,070	-8
Brown County	97,922	98,314	392
Denmark village ..	1,006	1,012	6
De Pere city	8,112	8,146	34
Green Bay city ...	52,443	52,735	292
Pulaski village ..	1,209	1,210	1
Buffalo County	14,698	14,719	21
Alma city	1,062	1,068	6
Mondovi city	2,276	2,285	9
Burnett County	10,199	10,236	37
Calumet County	18,797	18,840	43
Brillion city	1,390	1,390	..
Chilton city	2,363	2,367	4
Kiel city (part) ¹	254	261	7
New Holstein city	1,833	1,831	-2
Chippewa County	42,753	42,839	86
Bloomer city	2,555	2,556	1
Chippewa Falls city	11,072	11,088	16
Cornell village ..	1,937	1,944	7
Eau Claire city (part) ²	643	654	11
Stanley city	2,008	2,014	6
Clark County	32,380	32,459	79
Abbotsford village (part) ³	862	870	8
Loyal city	1,107	1,104	-3
Neillsville city..	2,655	2,663	8
Owen city	1,021	1,034	13
Thorp city	1,372	1,383	11
Columbia County	33,939	34,023	84
Columbus city	3,242	3,250	8
Lodi city	1,415	1,416	1
Pardeeville village	1,111	1,112	1
Portage city	7,283	7,334	51
Randolph village (part) ⁴	469	468	-1
Wisconsin Dells city	1,953	1,957	4
Crawford County ...	17,661	17,652	-9
Prairie du Chien city	5,392	5,392	..

¹Kiel city, partly in Calumet County and partly in Manitowoc County.

²Eau Claire city, partly in Chippewa County and partly in Eau Claire County.

³Abbotsford village, partly in Clark County and partly in Marathon County.

⁴Randolph village, partly in Columbia County and partly in Dodge County.

Area	Preliminary count, pub. Sept. 11, 1950	Final count published August 1951	Increase of final over pre- liminary count
Dane County	168,630	169,357	727
Madison city	95,594	96,056	462
Maple Bluff village	1,351	1,361	10
Middleton village ..	2,108	2,110	2
Monona village ...	2,533	2,544	11
Mount Horeb village ..	1,709	1,716	7
Oregon village ...	1,328	1,341	13
Shorewood Hills village	1,581	1,594	13
Stoughton city	4,813	4,833	20
Sun Prairie village ..	2,262	2,263	1
Waunakee village ..	1,036	1,042	6
Dodge County	57,504	57,611	107
Beaver Dam city ...	11,833	11,867	34
Fox Lake city	1,159	1,153	-6
Horicon city	2,658	2,664	6
Juneau city	1,437	1,444	7
Mayville city	2,995	3,010	15
Randolph village (part) ¹	882	882	..
Watertown city (part) ²	3,151	3,157	6
Waupun city (pt.) ³	4,729	4,727	-2
Door County	20,690	20,870	180
Sturgeon Bay city ..	6,913	7,054	141
Douglas County	46,453	46,715	262
Superior city	35,091	35,325	234
Dunn County	27,245	27,341	96
Colfax village	1,040	1,044	4
Menomonie city	8,184	8,245	61
Eau Claire County ...	53,978	54,187	209
Altoona city	1,710	1,713	3
Augusta city	1,456	1,458	2
Eau Claire city (part) ⁴	35,219	35,404	185
Florence County	3,737	3,756	19
Fond du Lac County ..	67,666	67,829	163
Campbellsport village	1,245	1,254	9
Fond du Lac city ..	29,826	29,936	110
North Fond du Lac village	2,289	2,291	2
Ripon city	5,610	5,619	9
Waupun city (part) ⁵	1,996	1,998	2

¹ Randolph village, partly in Dodge County and partly in Columbia County.

² Watertown city, partly in Dodge County and partly in Jefferson County.

³ Waupun city, partly in Dodge County and partly in Fond du Lac County.

⁴ Eau Claire city, partly in Eau Claire County and partly in Chippewa County.

⁵ Waupun city, partly in Dodge County and partly in Fond du Lac County.

Area	Preliminary count, pub. Sept. 11, 1950	Final count, published August 1951	Increase of final over pre- liminary count
Forest County	9,408	9,437	29
Crandon city	1,915	1,922	7
Grant County	41,544	41,460	-84
Boscobel city	2,340	2,347	7
Cuba city	1,329	1,333	4
Fennimore city ...	1,676	1,696	20
Lancaster city ...	3,245	3,266	21
Muscodavillage ..	1,037	1,046	9
Platteville city..	5,718	5,751	33
Green County	24,125	24,172	47
Brodhead city	2,009	2,016	7
Monroe city	7,008	7,037	29
New Glarus village	1,229	1,224	-5
Green Lake County ..	14,738	14,749	11
Berlin city (part) ¹	4,656	4,660	4
Markesan village..	1,011	1,010	-1
Princeton city ...	1,372	1,371	-1
Iowa County	19,555	19,610	55
Dodgeville city ..	2,515	2,532	17
Mineral Point city	2,279	2,284	5
Iron County	8,677	8,714	37
Hurley city	3,030	3,034	4
Montreal city	1,433	1,439	6
Jackson County	16,033	16,073	40
Black River Falls city	2,806	2,824	18
Jefferson County ...	43,124	43,069	-55
Fort Atkinson city	6,257	6,280	23
Jefferson city ...	3,620	3,625	5
Lake Mills city ..	2,529	2,516	-13
Waterloo village..	1,664	1,667	3
Watertown city (part) ²	9,242	9,260	18
Juneau County	18,911	18,930	19
Elroy city	1,646	1,654	8
Mauston city	3,168	3,171	3
New Lisbon city ..	1,486	1,482	-4
Kenosha County	75,157	75,238	81
Kenosha city	54,360	54,368	8
Kewaunee County	17,347	17,366	19
Algoma city	3,382	3,384	2
Kewaunee city	2,576	2,583	7
La Crosse County ...	67,597	67,587	-10
La Crosse city ...	47,396	47,535	139
Onalaska city	2,561	2,561	..
West Salem village	1,372	1,376	4
Lafayette County ...	18,115	18,137	22
Darlington city ..	2,168	2,174	6
Shullsburg city ..	1,305	1,306	1

1 Berlin city, partly in Green Lake County and partly in Waushara County.

2 Watertown city, partly in Jefferson County and partly in Dodge County.

Area	Preliminary count, pub. Sept 11, 1950	Final count, published August 1951	Increase of final over pre- liminary count
Langlade County	21,959	21,975	16
Antigo city	9,897	9,902	5
Lincoln County	22,176	22,235	59
Merrill city	8,913	8,951	38
Tomahawk city	3,541	3,534	-7
Manitowoc County ...	66,607	67,159	552
Kiel city (part) ¹	1,866	1,868	2
Manitowoc city ..	27,444	27,598	154
Two Rivers city..	9,890	10,243	353
Marathon County ...	80,332	80,337	5
Abbotsford village (part) ²	141	143	2
Mosinee city	1,449	1,453	4
Rothschild village	1,430	1,425	-5
Schofield village	1,942	1,948	6
Wausau city	30,386	30,414	28
Marinette County ..	35,716	35,748	32
Marinette city ..	14,198	14,178	-20
Niagara village	2,020	2,022	2
Peshtigo city ...	2,274	2,279	5
Marquette County ..	8,811	8,839	28
Montello city ...	1,065	1,069	4
Milwaukee County ..	863,937	871,047	7,110
Cudahy city	12,090	12,182	92
Fox Point village	2,549	2,585	36
Greendale village	2,747	2,752	5
Milwaukee city ..	632,651	637,392	4,741
Shorewood village	16,105	16,199	94
South Milwaukee city	12,826	12,855	29
Wauwatosa city ..	33,300	33,324	24
West Allis city..	42,945	42,959	14
West Milwaukee village	5,417	5,429	12
Whitefish Bay village	14,626	14,665	39
Monroe County	31,375	31,378	3
Sparta city	5,878	5,893	15
Tomah city	4,771	4,760	-11
Oconto County	26,212	26,238	26
Gillett city	1,407	1,410	3
Oconto city	5,046	5,055	9
Oconto Falls city	2,053	2,050	-3
Oneida County	20,505	20,648	143
Rhineland city	8,728	8,774	46
Outagamie County ..	81,564	81,722	158
Appleton city ...	33,892	34,010	118
Hortonville village	1,075	1,081	6

1 Kiel city, partly in Manitowoc County and partly in Calumet County.

2 Abbotsford village, partly in Marathon County and partly in Clark County.

Area	Preliminary count; pub. Sept. 11, 1950	Final count, published August 1951	Increase of final over pre- liminary count
Outagamie County (Cont.)			
Kaukauna city	8,361	8,337	-24
Kimberly village	3,181	3,179	-2
Little Chute village	4,151	4,152	1
New London city (part) ¹	1,174	1,184	10
Seymour city	1,754	1,760	6
Ozaukee County			
Cedarburg city	23,302	23,361	59
Grafton village	2,814	2,810	-4
Port Washington city	1,491	1,489	-2
Pepin County	4,754	4,755	1
Durand city	7,430	7,462	32
Pierce County	1,958	1,961	3
Ellsworth village ...	21,409	21,448	39
Prescott city	1,470	1,475	5
River Falls city (part) ²	1,002	1,005	3
Polk County	3,455	3,451	-4
Amery city	24,880	24,944	64
St. Croix Falls village	1,611	1,625	14
Portage County	1,058	1,065	7
Stevens Point city ..	34,845	34,858	13
Price County	16,550	16,564	14
Park Falls city	16,338	16,344	6
Phillips city	2,933	2,924	-9
Racine County	1,780	1,775	-5
Burlington city	109,105	109,585	480
Racine city	4,774	4,780	6
Sturtevant village ..	70,749	71,193	444
Union Grove village	1,172	1,176	4
Waterford village ...	1,351	1,358	7
Richland County	1,095	1,100	5
Richland Center city	19,236	19,245	9
Rock County	4,620	4,608	-12
Beloit city	92,644	92,778	134
Clinton village	29,541	29,590	49
Edgerton city	1,143	1,138	-5
Evansville city	3,495	3,507	12
Janesville city	2,530	2,531	1
Milton village	24,829	24,899	70
Milton Junction village	1,551	1,549	-2
Rusk County	1,096	1,104	8
Ladysmith city	16,764	16,790	26
	3,910	3,924	14

1 New London city, partly in Outagamie County and partly in Waupaca County.

2 River Falls city, partly in Pierce County and partly in St. Croix County.

Area	Preliminary count, pub. Sept. 11, 1950	Final count, published August 1951	Increase of final over pre- liminary count
St. Croix County	25,890	25,905	15
Baldwin village	1,096	1,100	4
Hudson city	3,436	3,435	-1
New Richmond city	2,869	2,886	17
River Falls city (part) ¹	422	426	4
Sauk County	38,088	38,120	32
Baraboo city	7,217	7,264	47
Prairie du Sac village	1,400	1,402	2
Reedsburg city	4,078	4,072	-6
Sauk City village ..	1,750	1,755	5
Spring Green village ..	1,082	1,064	-18
Sawyer County	10,275	10,323	48
Hayward city	1,573	1,577	4
Shawano County	35,198	35,249	51
Shawano city	5,869	5,894	25
Sheboygan County	80,415	80,631	216
Cedar Grove village ..	1,003	1,010	7
Kohler village	1,722	1,716	-6
Plymouth city	4,540	4,543	3
Sheboygan city	42,485	42,365	-120
Sheboygan Falls city ..	3,604	3,599	-5
Taylor County	18,441	18,456	15
Medford city	2,795	2,799	4
Trempealeau County ...	23,623	23,730	107
Arcadia city	1,947	1,949	2
Galesville city	1,187	1,193	6
Independence city ..	1,089	1,088	-1
Osseo city	1,122	1,126	4
Whitehall city	1,372	1,379	7
Vernon County	27,879	27,906	27
Hillsboro city	1,332	1,341	9
Viroqua city	3,788	3,795	7
Westby city	1,490	1,491	1
Vilas County	9,255	9,363	108
Eagle River city ...	1,440	1,469	29
Walworth County	41,413	41,584	171
Delavan city	4,000	4,007	7
East Troy village ..	1,054	1,052	-2
Elkhorn city	2,917	2,935	18
Lake Geneva city ...	4,279	4,300	21
Sharon village	1,016	1,013	-3
Walworth village ...	1,140	1,137	-3
Whitewater city	5,085	5,101	16
Williams Bay village	1,102	1,118	16
Washburn County	11,647	11,665	18
Spooner city	2,610	2,597	-13

¹ River Falls city, partly in Pierce County and partly in St. Croix County.

Area	Preliminary count, pub. Sept. 11, 1950	Final count, published August 1951	Increase of final over pre- liminary count
Washington County ...	33,881	33,902	11
Barton village	1,037	1,039	2
Hartford city	4,547	4,549	2
Kewaskum village ..	1,188	1,183	-5
West Bend city	6,845	6,849	4
Waukesha County	85,683	85,901	218
Butler village	1,036	1,047	11
Hartland village ..	1,180	1,190	10
Menomonee Falls village	2,466	2,469	3
Mukwonago village..	1,203	1,207	4
Oconomowoc city ...	5,322	5,345	23
Pewaukee village ..	1,784	1,792	8
Waukesha city	21,186	21,233	47
Waupaca County	34,986	35,056	70
Clintonville city	4,652	4,657	5
Marion city	1,122	1,118	-4
New London city (part) ¹	3,734	3,738	4
Waupaca city	3,922	3,921	-1
Weyauwega city	1,208	1,207	-1
Waushara County	13,862	13,920	58
Berlin city (part) ²	32	33	1
Wautoma city	1,376	1,376	..
Winnebago County	90,841	91,103	62
Menasha city	12,360	12,385	25
Neenah city	12,418	12,437	19
Omro city	1,469	1,470	1
Oshkosh city	40,934	41,084	150
Winneconne village	1,068	1,078	10
Wood County	50,524	50,500	-24
Marshfield city ...	12,377	12,394	17
Nekoosa city	2,350	2,352	2
Port Edwards village	1,335	1,336	1
Wisconsin Rapids city	13,518	13,496	-24

1 New London city, partly in Waupaca County and partly in Outagamie County.

2 Berlin city, partly in Waushara County and partly in Green Lake County.

There was a difference of 13,259 people in the preliminary and final count or less than 1/2 of 1%. The difference ranged from 1 to 7,110 among units, but even the 7,110 increase in Milwaukee County was less than 1% of the 871,047 total in the county.

While a difference of 1 might be critical if it caused a city to move from one class to another, the example of the highway aid law indicates how it is possible to provide for such adjustments.

Note that the preliminary reports of 1950 and 1960 were released on about the same date, and that if the final reports are released in the same time sequence, it will be August of 1961 before they are available. The Bureau of the Census has indicated, however, that due to the mechanization of much of their work, the final results will be released much earlier.

In a report issued in July, 1960 called "Publication Program for the 1960 Census of Population" the Census Bureau divides the reports into preliminary reports, advance reports and final reports. The preliminary reports include the PC (pl) report received by the Secretary of State on September 12, 1960 which gives the preliminary figures for each county and for each incorporated place of 1,000 or more. The program called for them to appear from May to August, 1960.

The PC (A-1) series called the advance reports give the final figures on all counties, all minor subdivisions, all incorporated places and all unincorporated places of 1,000 or more. These are scheduled to appear August to November, 1960.

The Final Reports, the PC (1) 1A to 57A series which will give the final figures for counties, minor subdivisions, will appear from September, 1960 to April, 1961.

If this schedule is adhered to the data will be available much more rapidly than in 1950.

THE ANSWER IN OTHER STATES

It is especially valuable to compare Wisconsin census date determination with that of Minnesota because of the parallel uses to which this enumeration is put. Minnesota also has a by-the-drink liquor license quota system based on population of the municipality issuing the license. Under s. 340.11, subd. 5, Minn. Stats., not more than one such "on sale" license may be issued per 1,500 inhabitants nor more than a total of 200 such licenses in any first class city (over 50,000 population).

The quota scales down from not more than 15 "on sale" licenses in any second class city (from 20,000 to less than 50,000 population) to not more than 2 such licenses for any village with less than 500 population.

But Minnesota erased all doubt as to the effective date of the federal population count as long ago as 1911 when it enacted the forerunner of the present s. 600.18, Minn. Stats., which today reads:

"Federal census; population. The governor shall obtain from the director of the federal census such certified copies thereof as will show the population of the several political subdivisions of this state, which certified copies shall be filed in the office of the secretary of state, and thereafter the several political divisions of the state, for all purposes, unless otherwise provided,

shall be deemed to have the population thereby disclosed. Copies thereof, duly certified to by the secretary of state, shall be prima facie evidence of the facts therein disclosed in all courts of this state."

And the date upon which such census takes effect has been specifically and repeatedly, in Attorneys General opinions covering not only liquor licenses but county sheriffs' salaries and compensation to be paid to state employes as well, held to be the "date on which certified copy of last federal census was filed with Secretary of State."

In other words, Minnesota has a statute on the subject. To make absolutely certain that there can be only one interpretation of the proper date for making changes based on the changed size of Minnesota cities, a paragraph has been included under the city classification statute (s. 410.01) as follows:

"Changes in classification resulting from any future national census shall take effect upon the filing of certified copies of the census in the office of the secretary of state as provided in section 600.18. Meanwhile the council or other governing body shall take measures for the election of proper officials and for dividing the city into wards, if necessary, and otherwise prepare for the coming change."

Iowa has had a solution to the same problem, also since 1911, which is even more explicit than Minnesota's. The Secretary of State of Iowa is required to obtain the Iowa portion of the general census which "gives the population of the state of Iowa by counties, by cities, and by towns, and file the same in his office and attach thereto, dated and signed by him, a certificate that the same is the census report furnished to him by said federal (census) official." (s. 26.2, Iowa Stats.)

Iowa adds a publication step to the filing process espoused by Minnesota, under s. 26.3, Iowa Stats., as follows:

"Publication. He (secretary of state) shall at once cause such census report and certificate to be published once in each of two daily newspapers of the state and of general circulation, and from and after the date of such publication said census shall be in full force and effect throughout the state..."

Ohio uses a "proclamation" by the Secretary of State of Ohio which serves an identical effective date purpose for the federal census results in that state as does the "filing" in Minnesota or the "publication" in Iowa.

The Ohio system of coping with this problem is found in two Ohio statutes, as follows;

"s. 703.01 Classification. Municipal corporations, which, at the last federal census, had a population of five thousand or more, are cities. All other municipal corporations are villages. Cities, which, at any federal

census, have a population of less than five thousand shall become villages. Villages, which, at any federal census, have a population of five thousand or more, shall become cities... After each decennial census the secretary of state (of Ohio) shall issue a proclamation certifying the number of permanent residents in such municipal corporation and the number of students attending a college or university therein.

"s. 703.06 Proclamation of population. When the result of any federal census, or an enumeration as provided in sections 703.02 to 703.05 (local censuses), inclusive, of the Revised Code, is officially made known to the secretary of state, he forthwith shall issue a proclamation, stating the names of all municipal corporations having a population of five thousand or more, and the names of all municipal corporations having a population of less than five thousand, together with the population of all such municipal corporations. A copy of the proclamation shall forthwith be sent to the mayor of each such municipal corporation, which copy shall forthwith be transmitted to the legislative authority of such municipal corporation, read therein, and made a part of the records thereof. Thirty days after the issuance of such proclamation each municipal corporation shall be a city or village as the case may be."

CONCLUSION

It is apparent that in Wisconsin the census figures go into effect whenever an official announcement of census returns, whether final or not, is published. There is no central determination of that fact, and each of the several departments involved must set a time, based apparently on its own knowledge, when such returns have been announced. In 1960 when the Secretary of State received preliminary figures for counties and municipalities over 1,000 on September 12, it was a week or more before it became general knowledge that such data existed. The Legislative Council secured the data for their reapportionment study by purchase, and through the cooperation of the Tax Department secured compilations of the preliminary figures for all local units of government. Did this report have official status?

Several states have by a simple expedient spelled out what is an official announcement and when it becomes official. Conceivably Wisconsin could by a simple statute solve this recurring problem in a similar manner.