STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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OAG 1-96

March 7, 1996

Mr. Frank Volpintesta
Corporation Counsel
Kenosha County Courthouse
912 - 56th Street
Kenosha, WI 53140

Dear Mr. Volpintesta:

You indicate that Kenosha County is considering contracting with a private security firm to construct and operate a house of correction. Under the proposal being considered, the firm would be required to comply with all state laws and to obtain all necessary construction and training approvals from the Department of Corrections. The county would appoint a superintendent and a small staff for oversight and daily inspection of the facility, but most security and other operations would be managed by the firm for a fixed dollar amount per inmate per day. The county would also continue to operate a county jail under the management and control of the sheriff. The jail would receive inmates not sent to the house of correction. You advise that Kenosha County has a civil service ordinance which is applicable only to deputy sheriffs and which you believe would not apply to any employes of a house of correction.

You ask whether a county board is statutorily authorized to contract with a private firm to construct and operate a house of correction under the overall auspices of a county superintendent and a small county staff. You also ask if employes of such a private firm would have arrest powers.

In my opinion, while a private security firm could conceivably qualify to construct a house of correction, county employes must perform the incarceration functions associated with operating such facilities. It is therefore unnecessary to answer your second question.

Section 303.16(1), Stats. (1991), was amended by 1993 Wisconsin Act 89. The deletions from that statute made by the Act were as follows:

> The county board of any county ~~whose population is 500,000 or more~~ may, pursuant to s. 301.37, establish, relocate and maintain within the county a house of correction for the reformation and employment of persons sentenced to confinement therein.

Assuming compliance with section 66.29, which governs the construction of public works projects, and with sections 301.37 and 303.16(1), which provide for general oversight by the Department of Corrections, I see no reason why a private security firm could not construct a house of correction. However, once a county establishes a house of correction, it must be operated under the provisions of section 303.17. The additions and deletions to section 303.17(1) made by 1993 Wisconsin Act 89 were as follows:

> (1) The county board of supervisors shall control the management of a house of correction under s. 303.16, pursuant to such regulations and under the direct supervision and control of such officers as the county board of supervisors prescribes. No such regulation may be finally adopted on the day on which it is first presented to the county board of supervisors for consideration, nor until it has been considered and reported upon by the proper committee of the county board of supervisors. The county board of supervisors may by ordinance place the management of the house of correction under the control of the county department under s. 46.21 or 46.23, whichever is applicable, and in that event s. 46.21 or 46.23, so far as applicable, shall control. The county board of supervisors may by ordinance resume control of the management of the house of correction. The county board of supervisors shall, in accordance with the civil service law, prescribe the number and compensation of all personnel needed for the administration of the house of correction, and fix their duties.
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> (2) The chief judge of the judicial administrative district and his or her designees, district attorney and sheriff for the county and the mayor or other chief executive officer and ~~city~~ the municipal attorney of its most populous city, village or town shall constitute a board of visitors, who shall investigate the affairs of the house of correction on the first Monday of August in each year, and ~~thereupon~~ report in writing to the county board of supervisors at its annual meeting, or to the

> county department under s. 46.21 or 46.23 if the county department is in charge of the institution, setting forth its condition, and suggesting such alterations, improvements or other matters respecting the management, discipline and government of the institution as may promote the purposes thereof and the interests of the county.

I am not persuaded that, simply by making these additions and deletions, the Legislature has authorized counties to enter into arrangements of the nature you describe. In examining the provisions of section 303.17(1), I am guided by the principle that "'a county board has only such powers as are expressly conferred upon it or necessarily implied from the powers expressly given or from the nature of the grant of power.'" St. ex rel. Teunas v. Kenosha County, 142 Wis. 2d 498, 504, 418 N.W.2d 833 (1988) (citation omitted). Section 303.17(1) provides that the county board of supervisors "shall control the management of a house of correction . . . under the direct supervision and control of such officers as the county board of supervisors prescribes." The last sentence of section 303.17(1) also provides that "[t]he county board of supervisors shall, in accordance with the civil service law, prescribe the number and compensation of all personnel needed for the administration of the house of correction, and fix their duties."

As amended by 1993 Wisconsin Act 89, the statutes governing the organization and operation of houses of correction uniformly affect every county, including Milwaukee County. In every county which chooses to establish a house of correction, the authority to control its management, prescribe the number of personnel needed, fix their duties and establish their compensation is vested in the county board. Once established, a house of correction must also be under the direct supervision and control of county officers. Even though a substantial number of personnel would be needed for administration of the house of correction, under your proposal the county board would not prescribe the number of personnel needed, fix their duties or establish their compensation. Under your proposal, the operations of the house of correction also would be supervised by private security personnel. The operation of the house of correction would be under the indirect supervision of a small county staff.

You suggest that compliance with the statutory provisions concerning county board supervision and control of the house of correction is excused under section 59.025, which provides: "Administrative home rule. Every county may exercise any organizational or administrative power, subject only to the constitution and any enactment of the legislature which is of

statewide concern and which uniformly affects every county." Section 59.07(intro) also provides:

> General powers of board. The board of each county shall have the authority to exercise any organizational or administrative power, subject only to the constitution and any enactment of the legislature which grants the organizational or administrative power to a county executive or county administrator or to a person supervised by a county executive or county administrator or any enactment which is of statewide concern and which uniformly affects every county. Any organizational or administrative power conferred under this section shall be in addition to all other grants. A county board may exercise any organizational or administrative power under this section without limitation due to enumeration.

It is true that these provisions, like all other provisions in chapter 59, are to "be liberally construed in favor of the rights, powers and privileges of counties to exercise any organizational or administrative power." Sec. 59.026, Stats. While a liberal construction is required under section 59.026, section 59.025 contains explicit limitations on the exercise of administrative home rule powers by counties, both under the constitution and in connection with matters of statewide concern and enactments which uniformly affect every county.

The language contained in sections 59.025 and 59.07(intro) is "'modeled after municipal home-rule language used in the constitution and statutes.'" 77 Op. Att'y Gen. 113, 114 (1988). The scope of municipal home rule powers under article XI, section 3 of the Wisconsin Constitution differs from that under section 62.11(5):

> The quality of the waters of Lakes Mendota and Monona has a clear non-local impact and is emphatically a matter of state-wide concern. Whatever authority the City of Madison may exercise regarding the chemical treatment of noxious weeds on Madison lakes, it is not constitutional in nature. It must, therefore, depend on a legislative grant of power.

Wis. Environmental Decade, Inc., v. DNR, 85 Wis. 2d 518, 530-31, 271 N.W.2d 69 (1978) (footnote omitted).

Although section 59.07 contains a legislative grant of power, the statutory language defining the substantive nature of the power granted is modelled primarily upon language contained in article XI, section 3 of the Wisconsin Constitution rather than upon language contained in section 62.11(5). Cases interpreting

the substantive nature of the powers granted under the constitutional municipal home rule provision indicate that constitutional home rule may not be exercised to elect against any enactment of the Legislature which is primarily or exclusively a matter of statewide concern or against any enactment of the Legislature which is a matter of primarily local rather than statewide concern, if such a primarily local enactment uniformly affects every municipality:

> In determining whether or not a municipality may elect against a statute, the statute must first be classified as one which is exclusively of statewide concern, one which is entirely of local character or one which cannot be fit exclusively into one of these categories.
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> If the provisions of the statute are of statewide concern . . . home rule . . . grants no power . . . to deal with it. If the provisions concern a purely local affair, a municipality may elect not to be bound. If the statute is in the third, "mixed bag," category, the test is whether the statute is "primarily or paramountly a matter of 'local affairs and government' under . . . home rule . . . or of 'state-wide concern.'"

Gloudeman v. City of St. Francis, 143 Wis. 2d 780, 789, 422 N.W.2d 864 (Ct. App. 1988) (footnotes omitted), quoting State ex rel. Michalek v. LeGrand, 77 Wis. 2d 520, 526-28, 253 N.W.2d 505 (1977). See 81 Op. Att'y Gen. 145, 150-51 (1994). Unlike section 62.11(5), which contains a grant of substantive power for municipalities to act even in connection with matters primarily of statewide concern, county municipal home rule statutes "expand upon and 'fill the gaps' in the organizational and administrative structure which is already in place." 77 Op. Att'y Gen. at 116. Compare Wis. Asso. of Food Dealers v. City of Madison, 97 Wis. 2d 426, 431-32, 293 N.W.2d 540 (1980).

In addition to uniformly affecting every county, these statutes, like most enactments concerning public health, safety, welfare and education, also involve matters primarily of statewide concern. See Wisconsin Solid Waste Recycling Auth. v. Earl, 70 Wis. 2d 464, 481, 235 N.W.2d 648 (1975); State ex rel. Warren v. Nusbaum, 59 Wis. 2d 391, 422, 208 N.W.2d 780 (1973); West Milwaukee v. Area Bd. Vocational, T. & A. Ed., 51 Wis. 2d 356, 376, 187 N.W.2d 387 (1971); State ex rel. La Follette v. Reuter, 33 Wis. 2d 384, 397, 147 N.W.2d 304 (1967); State ex rel. Martin v. Juneau, 238 Wis. 564, 570-71, 300 N.W. 187 (1941). In State ex rel. Bare

v. Schinz, 194 Wis. 397, 400-01, 216 N.W. 509 (1927), the court held that a county

> is a governmental agency of the state, performing primarily the functions of the state locally. It so acts for the state in the administration of justice; in the establishment of almshouses and other charitable institutions; in maintaining insane asylums and penal institutions. It is not created for the local convenience of the inhabitants as in the case of cities and villages. It exists not by virtue of its own will or consent, but as a result of the superimposed will of the state.

(Emphasis supplied.)

In 77 Op. Att'y Gen. 94 (1988), it was determined that counties cannot enter into contracts to privatize their jails. Although the constitutional powers of the sheriff were one factor that led to that result, a separate and distinct reason for that conclusion was that the privatization of law and order functions relating to the incarceration of prisoners involves a matter exclusively or primarily of statewide concern:

> As explained in State ex rel. Hammermill Paper Co. v. La Plante, 58 Wis. 2d 32, 80, 205 N.W.2d 784 (1993), a governmental subdivision "may, by contract, curtail its right to exercise functions of a business or proprietary nature, but, in the absence of express legislative authority, it cannot surrender or contract away its governmental functions and powers," not even partially. See also Wausau Jt. Venture v. Redevelopment Authority, 118 Wis. 2d 50, 59, 347 N.W.2d 604 (Ct. App. 1984). Consistent with this basic proposition, it is said that such an entity may not contract for the performance of public duties which the law requires its public officers or employes to perform. . . .
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> . . . .
>
> . . . The maintenance of law and order encompassed in the jailer function involves just such an exercise of the sovereign power of the state. As explained in Van Gilder v. Madison, 222 Wis. 58, 76, 267 N.W. 25, 268 N.W. 108 (1936): "The determination of other courts and a consideration of the fundamental reasons which underlie those determinations require us to hold that the preservation of order, the enforcement of law, the protection of life and property, and the suppression of crime are matters of state-wide concern." Counties, as

> governmental subdivisions of the state, "are merely agencies of the state in respect to the performance of these primary obligations of the state."

77 Op. Att'y Gen. at 95-96.

This reasoning is applicable to all forms of incarceration for commitment of a crime and is not limited to functions performed under the auspices of the sheriff as a constitutional officer. In my opinion, with respect to matters exclusively or primarily of statewide concern, "if the legislature did not specifically confer a power, it is evidence of legislative intent not to permit the exercise of the power." See State ex rel. Harris v. Larson, 64 Wis. 2d 521, 527, 219 N.W.2d 335 (1974). Specific legislation would be needed in order to permit counties to contract for the performance of incarceration functions associated with operating a house of correction because those functions involve matters of statewide concern.

It may be the case, as suggested in recent correspondence from your county executive, that privatization of the incarceration functions associated with operating a house of correction would be appropriate policy, given the high prisoner costs currently being incurred by counties. However, under existing statutes, prisoners may be freely transferred between federal, state and county facilities, including houses of correction. See, e.g., secs. 303.18(3), 303.20 and 973.14, Stats. The question of whether federal, state and county prisoners should be under the custody and control of private security firms is one which has not yet received legislative attention. After examining the pertinent legislative history as well as the rules of construction set out by the court in Teunas and Harris, it is my opinion that the Legislature has not yet authorized counties to privatize the incarceration functions associated with operating houses of correction.

I, therefore, conclude that under existing statutes, while a private security firm could conceivably qualify to construct a house of correction, county employes must perform the incarceration functions associated with operating such facilities.

Sincerely,

James E. Doyle
Attorney General

JED:FTC:vmz

CAPTION:

Under existing statutes, while a private security firm could conceivably qualify to construct a house of correction, county employes must perform the incarceration functions associated with operating such facilities.

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OAG 2-96

May 21, 1996

The Honorable Michael G. Ellis
Senate Majority Leader
119 Martin Luther King Jr. Blvd.
Room 101
Madison, WI 53702

The Honorable Fred A. Risser
Senate Assistant Minority Leader
119 Martin Luther King Jr. Blvd.
Room 422
Madison, WI 53702

Dear Senators Ellis and Risser:

The Senate Committee on Organization has requested a formal opinion regarding the constitutionality of the provisions in 1995 Assembly Bill 633 and 1995 Assembly Bill 774, both of which proposed to legalize video gambling in taverns throughout the State of Wisconsin.[1] While the legislation utilizes the term "amusement devices" for these machines, the description of the operation of these machines reveals that they are, in fact, gambling machines as currently defined in section 945.01(3), Stats. My opinion is that such an expansion of gambling would violate article IV, section 24 of the Wisconsin Constitution.

THE LEGISLATIVE PROPOSALS

The legislation in question would legalize video gambling machines. 1995 Assembly Bill 774 (AB 774) provides for licensing and regulation of "amusement devices" by the Department of Revenue, a tax on the devices and exemptions from the criminal gambling provisions of chapter 945 for the devices. Section 24 of AB 774 describes the devices to be regulated:

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[1]Unless otherwise noted, all references in this opinion are to 1995 Assembly Bill 774, which is the bill which was actually considered by the Assembly. 1995 Assembly Bill 774 was defeated in the Assembly by a vote of 33 to 66 on March 28, 1996. However, because of the possibility of similar legislation being proposed in future legislatures, the issues in this opinion remain relevant to the development of the law in this state.

> "Amusement device" means any video amusement device if it awards or is capable of awarding the player with one or more redeemable free replays or credits for achieving certain scores or results and does not change the ratio of plays to free replays or credits so awarded. An amusement device set up for the purpose of play shall have a percentage of credits awarded to credits played of not less than 83%.

THE DEVICES IN QUESTION

AB 774 is intended to legalize games of chance. The "licensed and regulated amusement devices" which the bill purports to regulate would include various forms of video poker and video slot machines. Such machines are devices designed for use in gambling, offering the elements of "prize, consideration and chance."

Chance is present in any contest where it is "the dominant factor controlling the award." State v. Dahlk, 111 Wis. 2d 287, 296, 330 N.W.2d 611 (Ct. App. 1983). In discussing this "dominant factor" test, distinguishing chance from skill, the court noted "[t]he element of chance is present because the financial gain of any participant is the result of factors outside his control." State v. Dahlk, 111 Wis. 2d at 297, n.4. The dominant factor test was used in the gambling machine context prior to the current statutory language which was specifically being discussed in Dahlk. See Milwaukee v. Burns, 225 Wis. 296, 302, 274 N.W. 273 (1937), quoting Shapiro v. Moss, 245 App. Div. 835, 281 N.Y. Supp. 72 (1935).

The court in U.S. v. 294 Various Gambling Devices, 718 F. Supp. 1236 (W.D. Pa. 1989), described the element of chance in the operation of video poker games:

> [U]nlike most amusement games, a video poker player cannot extend the time of play regardless of the player's level of skill. For example, on pinball machines or Pacman, a player's manual dexterity, eye-hand coordination and experience may produce a longer game and greater enjoyment for the player. In video poker, each game has a finite time of play and no amount of skill or experience can extend play beyond that very short limit.

294 Various Gambling Devices, 718 F. Supp. at 1243.

Redeemable free replays are the "prize" encompassed by the term "gambling." Redeemable free replays have value simply because they are redeemable. Burns, 225 Wis. 296, was a case involving "redeemable" free replays, prior to any statutory mention of that

term. The machine in question awarded tokens, or "chips," which could be utilized for free plays, although there was also an allegation that they could be redeemed for drinks. The question was whether the tokens had "value." Burns, 225 Wis. at 300-01. Burns argued that the chips only had value if they were actually redeemed. The court found that whether the chips were actually redeemed was "wholly immaterial." Burns, 225 Wis. at 303. The chips had value because they were redeemable, it did not matter whether they actually were redeemed.

In U.S. v. 294 Various Gambling Devices, the court discussed the nature of redeemable free replays in the video poker games before it:

> Unlike most amusement devices, video poker offers the potential to win incredibly large numbers of free games. Unlike video amusement games such as Pacman, which offer extended play, or pinball games which offer limited numbers of potential free games, all earned through skill in the play of the machine, video poker machines offer up to 400 free games for a single winning hand based solely on luck of the draw. Video poker machines also accumulate credits from game to game, permitting a player to accumulate a maximum of between 899 and 9,999 credits, depending on the setting of a particular machine. Such numbers are more than can realistically be played out (e.g., 900 free games at 10 seconds per game would translate to 2 1/2 non-stop hours of play), and are indicative of some value other than the entitlement to a free game.

294 Various Gambling Devices, 718 F. Supp. at 1243.

Machines such as those described in AB 774 are "devices designed for use in gambling." Machines offering characteristics such as redeemable free replays (knock-off switches) and meters to record the number of free replays that are redeemed would be in violation of the Gambling Devices Act of 1962, 15 U.S.C. §§ 1171-78 (Johnson Act). This act specifically applies to machines which are "designed and manufactured primarily for use in gambling." 15 U.S.C.A. § 1171(a)(2) (1982). Numerous federal cases have found video amusement devices of the type described in AB 774 to be in violation of the Johnson Act. See, e.g., United States v. 5 Gambling Devices, 346 F. Supp. 999 (W.D. La. 1972); U.S. v. 294 Various Gambling Devices, 718 F. Supp. 1236 (W.D. Pa. 1989); U.S. v. 137 Draw Poker-type machines & 6 Slot Mach., 606 F. Supp. 747 (N.D. Ohio, 1984).

AB 774 itself recognizes that the play of these "amusement devices" would be "gambling" as that term is currently used in Wisconsin law. In order to avoid criminal liability for this new industry, the drafters specifically found it necessary to draft language excepting the operation of these machines from four of the six gambling-specific terms defined in section 945.01. Specifically, the legislation would amend definitional sections to provide that: "[p]laying an amusement device licensed under ch. 564" does not constitute a bet (creating sec. 945.01(1)(dm)); "[a]n amusement device licensed under ch. 564 or an amusement device possessed by a person who is registered under s. 564.03 (2) or (4)" is not a gambling machine (creating sec. 945.03(3)(b)1m.); "'[g]ambling place' does not include a place . . . where an amusement device licensed under ch. 564 is played or stored" (creating sec. 945.01(4)(am)); and the play of such machines is not a "lottery" (creating sec. 945.01(5)(am)). In addition, the legislation attempts to limit the current general definition of the term "gambling machine" to apply only to traditional "slot machines" (amending sec. 945.01(3)(a)).

CONSTITUTIONAL PROHIBITIONS

Since the creation of the State of Wisconsin in 1849, our constitution has contained a prohibition against lotteries. The constitutional provision never defined the term "lottery." However, case law and other tools of constitutional interpretation make clear that this term was to be broadly interpreted, meaning all forms of gambling.

In April of 1993, article IV, section 24(1) of the Wisconsin Constitution was amended to state that "[e]xcept as provided in this section, the legislature may not authorize gambling in any form."[2] The essence of this 1993 change was to replace the term "lottery" with the term "gambling" in subsection (1) of section 24. The actual question on the ballot at that time was "[s]hall article IV of the constitution be revised to clarify that <u>all forms of gambling are prohibited</u> except bingo, raffles, pari-mutuel on-track betting and the current state-run lottery and to assure that the state will not conduct prohibited forms of gambling as

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[2]Article IV continues by specifically authorizing bingo and raffles by non-profit organizations, parimutuel on-track wagering, and the state lottery. The 1993 constitutional amendment also contained lengthy provisions limiting the types of games which could be offered by the state lottery, and also removed an unrelated provision from article IV, section 24, which stated that the Legislature was not empowered to grant any divorce.

part of the state-run lottery?" (emphasis added). 1993 Enrolled Joint Resolution 3.

As with the original constitutional provision prohibiting lotteries, there was no definition for the term "gambling" as used. Since the term itself is not defined, we resort to other principles of law in interpreting this constitutional provision. In construing the constitution, courts will rely on the same rules that govern statutory construction. The words should be construed to give effect to the intent of the framers. State v. Beno, 116 Wis. 2d 122, 138, 341 N.W.2d 668 (1984). The courts in interpreting constitutional provisions will examine:

> "(1) The plain meaning of the words in the context used;
>
> "(2) The historical analysis of the constitutional debates . . . .
>
> "(3) The earliest interpretation of this section by the legislature as manifested in the first law passed following the adoption of the constitution. . . ."

State v. Beno, 116 Wis. 2d at 136-37; Jacobs v. Major, 139 Wis. 2d 492, 502, 407 N.W.2d 832 (1987).

The change in the term "lottery" resulted from the need to codify a distinction between gambling, which was to be generally prohibited, and the state lottery, which was to be only a limited exception to the prohibition. On February 3, 1993, prior to final passage of 1993 Senate Joint Resolution 2, which formed the basis of the constitutional question at the referendum election, I wrote a letter to Representative Marlin Schneider regarding the intent of this distinction: "I believe that the term 'gambling' is more readily understandable to the voter than the term 'lottery,' with the broad definition provided it by the Supreme Court and the Legislature. It is important that the Legislature make clear in its consideration of this amendment, that it intends the term 'gambling' to be as broadly prohibitory as the term 'lottery,' as it has been interpreted." The Legislature made that clear by their actions. The Legislative Reference Bureau analysis accompanying 1993 Senate Joint Resolution 2, which resulted in placement of the proposed constitutional amendment on the April 1993 ballot, stated "[s]ubstituting 'gambling' for 'lottery' in subsections (1) and (2) of section 24 of article IV reinstates the legislature's and the general public's understanding of the status of gambling in Wisconsin: except as specifically authorized by statutes implementing section 24 of article IV of the constitution, gambling is prohibited."

Further, illegal gambling in the State of Wisconsin has traditionally been prosecuted as a violation of our state's lottery laws. While the term "gambling" is used in the title of the chapter, and in the titles of sections 945.02, 945.03 and 945.04, the specific acts prohibited in those sections concern "lotteries," "gambling machines" and the placement or acceptance of "bets." The organization of chapter 945 in this manner, and the use of the term "gambling" as a generic term describing the activities prohibited by that chapter originated with the drafting of our criminal code in 1953-55 and continues to the present time without change. Clearly, the Legislature understands "gambling" to be the broadest term used in discussing these prohibited activities.

Finally, the overall context of the 1993 constitutional amendment supports a conclusion that the video gambling devices described in AB 774 are prohibited. The question before the voters was whether the constitution should make clear that "all forms of gambling are prohibited . . . and to assure that the state will not conduct prohibited forms of gambling as part of the state-run lottery." 1993 Enrolled Joint Resolution 3 (emphasis added). The new constitutional language specifically describes a number of games which the state lottery is prohibited from offering, including "any game or device that is commonly known as a video game of chance or a video gaming machine or that is commonly considered to be a video gambling machine." Wis. Const. art. IV, § 24(6)(c)9. It was understood, at the time of the constitutional amendment, that games such as those described in AB 774 were "prohibited forms of gambling."

In light of the plain meaning of the term "gambling," the broad use of the term "gambling" during the ongoing debate regarding the term "lottery" which preceded the constitutional amendment, and the nature of the term "gambling" as understood by the Legislature and used in the overall scheme of the 1993 constitutional amendment and chapter 945, it is clear that the term "gambling" as used in article IV, section 24(1) of the Wisconsin Constitution encompasses participation in all forms of gaming where the elements of prize, consideration and chance are present. The 1993 amendment clarified that all forms of gambling should continue to be prohibited by the constitution, unless a specific exception was provided therein.

CONCLUSION

Article IV, section 24 of the Wisconsin Constitution provides that "the legislature may not authorize gambling in any form." The term "gambling" has the same meaning as the broadest interpretations of the term "lottery" which preceded it, applying to all enterprises which encompass the three elements of prize,

consideration and chance. The operation of the devices described in 1995 Assembly Bill 633 and 1995 Assembly Bill 774 would entail each of those elements. It is my opinion that enactment of 1995 Assembly Bill 633 or 1995 Assembly Bill 774 by the Legislature would be a violation of the Wisconsin Constitution.

Sincerely,

James E. Doyle
Attorney General

JED:ARK:vmz

CAPTION:

Enactment of 1995 Assembly Bill 633 or 1995 Assembly Bill 774, which would purport to license and regulate certain "amusement devices," would be the authorization of "gambling." Such an act by the Legislature would be a violation of article IV, section 24(1) of the Wisconsin Constitution.