

**POLICY REGARDING OPENING INVOCATIONS
BEFORE SESSIONS OF THE WISCONSIN STATE ASSEMBLY**

WHEREAS, the Wisconsin State Assembly (“the Assembly”) has long maintained a tradition of solemnizing its proceedings by allowing for an opening prayer before each session, for the benefit of its members; and

WHEREAS, the Assembly wishes to maintain this tradition, and now desires to adopt this formal, written policy to clarify and codify its invocation practices; and

WHEREAS, our country’s Founders recognized that we possess certain rights that cannot be awarded, surrendered, nor corrupted by human power, and the Founders explicitly attributed the origin of these, our inalienable rights, to a Creator. These rights ultimately ensure the self-government manifest in our Legislature, upon which we desire to invoke divine guidance and blessing; and

WHEREAS, such prayer before legislative and other deliberative public bodies has been consistently upheld as constitutional by American courts, including the United States Supreme Court; and

WHEREAS, in *Marsh v. Chambers*, 463 U.S. 783 (1983), the United States Supreme Court rejected a challenge to the Nebraska Legislature’s practice of opening each day of its sessions with a prayer by a chaplain paid with taxpayer dollars, and specifically concluded, “The opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom.” *Id.*, at 786; and

WHEREAS, the Assembly desires to avail itself of the Supreme Court’s recognition that it is constitutionally permissible for a public body to “invoke divine guidance” on its work. *Id.*, at 792. Such invocation “is not, in these circumstances, an ‘establishment’ of religion or a step toward establishment; it is simply a tolerable acknowledgment of beliefs widely held among the people of this country.” *Id.*; and

WHEREAS, the Supreme Court affirmed in *Lynch v. Donnelly*, 465 U.S. 668 (1984), “Our history is replete with official references to the value and invocation of Divine guidance in deliberations and pronouncements of the Founding Fathers and contemporary leaders.” *Id.*, at 675; and

WHEREAS, the Supreme Court further stated, that “government acknowledgments of religion serve, in the only ways reasonably possible in our culture, the legitimate secular purposes of solemnizing public occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of appreciation in society. For that reason, and because of their

history and ubiquity, those practices are not understood as conveying government approval of particular religious beliefs.” *Id.*, at 693 (O’Connor, J., concurring); and

WHEREAS, the Supreme Court also famously observed in *Zorach v. Clauson*, 343 U.S. 306, (1952), “We are a religious people whose institutions presuppose a Supreme Being.” *Id.*, at 313-14; and

WHEREAS, the Supreme Court acknowledged in *Holy Trinity Church v. United States*, 143 U.S. 457 (1892), that the American people have long followed a “custom of opening sessions of all deliberative bodies and most conventions with prayer...,” *Id.*, at 471; and

WHEREAS, the Supreme Court has determined, “The content of [such] prayer is not of concern to judges where . . . there is no indication that the prayer opportunity has been exploited to proselytize or advance any one, or to disparage any other, faith or belief.” *Marsh*, 463 U.S. at 794-795; and

WHEREAS, the Supreme Court also proclaimed that it should not be the job of the courts or deliberative public bodies “to embark on a sensitive evaluation or to parse the content of a particular prayer” offered before a deliberative public body. *Id.*; and

WHEREAS, the Supreme Court has counseled against the efforts of government officials to affirmatively screen, censor, prescribe and/or proscribe the specific content of public prayers offered by private speakers, as such government efforts would violate the First Amendment rights of those speakers. *See, e.g., Lee v. Weisman*, 505 U.S. 577, 588-589 (1992); and

WHEREAS, the Assembly intends, and has intended in past practice, to adopt a policy that does not proselytize or advance any faith, or show any purposeful preference of one religious view to the exclusion of others; and

WHEREAS, the Assembly recognizes its constitutional duty to interpret, construe, and amend its policies and ordinances to comply with constitutional requirements as they are announced; and

WHEREAS, the Assembly accepts as binding the applicability of general principles of law and all the rights and obligations afforded under the United States and Wisconsin Constitutions.

NOW, THEREFORE, BE IT RESOLVED by the Wisconsin State Assembly that the Assembly hereby adopts the following written policy regarding opening invocations before sessions of the Assembly, to wit:

1. In order to solemnize proceedings of the Wisconsin State Assembly, it is the policy of the Assembly to allow for an invocation or prayer to be offered before its sessions for the benefit of its members.

2. The prayer shall not be listed or recognized as an agenda item for the session or as part of the public business.

3. No member or employee of the Assembly or any other person in attendance at the session shall be required to participate in any prayer that is offered.

4. The prayer shall be voluntarily delivered by a member of the clergy in the State of Wisconsin. To ensure that such person (the “invocation speaker”) is selected from among a wide pool of the state’s clergy, on a rotating basis, the invocation speaker shall be selected according to the following procedure:

a. Members of the Assembly (“Members”) are encouraged to invite clergy from their districts to serve as an invocation speaker.

b. When a member of the clergy accepts a Member’s invitation, the Member shall refer the clergy’s name and contact information to the Assembly Clerk.

c. The Clerk shall thereafter submit a letter to that an invitation addressed to the clergy member, containing the following information and guidelines, as well as information concerning arrival times and parking:

Dear [name of clergy member],

The Wisconsin State Assembly makes it a policy to invite members of Wisconsin’s clergy to voluntarily offer a prayer before the beginning of Assembly sessions, for the benefit and blessing of Assembly members. I am informed by Representative [name] that you have agreed to offer this important service at an upcoming session of the Assembly.

The available dates of upcoming sessions of the Assembly are listed on the attached page. If you have a preference among the dates, please contact me as soon as possible so that we may schedule your appearance.

This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. To maintain a spirit of respect and ecumenism, the Assembly requests only that the prayer opportunity not be exploited as an effort to convert others to the particular faith of the invocation speaker, nor to disparage any faith or belief different than that of the invocation speaker. An appropriate opening prayer is typically two to three minutes in length.

[Additional information related to arrival time and parking.]

On behalf of the Wisconsin State Assembly, I thank you in advance for your willingness to accept Representative [name]'s invitation.

*Sincerely,
Clerk to the Assembly*

5. No invocation speaker shall receive compensation for his or her service.

6. The Clerk shall make every reasonable effort to ensure that a variety of eligible invocation speakers are scheduled for the Assembly sessions. In any event, no invocation speaker shall be scheduled to offer a prayer at consecutive meetings of the Assembly, or at more than one (1) Assembly session in any calendar year.

7. Neither the Assembly Clerk nor any Member shall engage in any prior inquiry, review of, or involvement in, the content of any prayer to be offered by an invocation speaker.

8. Shortly before the opening gavel that officially begins the session and the agenda/business of the public, the Speaker of the Assembly shall introduce the invocation speaker and the person selected to recite the Pledge of Allegiance following the invocation, and invite only those who wish to do so to stand for those observances of and for the Assembly.

9. This policy is not intended, and shall not be implemented or construed in any way, to affiliate the Assembly with, nor express the Assembly's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the Assembly's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of the State of Wisconsin.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this policy shall become effective immediately upon adoption by the Assembly.

THUS INTRODUCED at the Regular Session of the Wisconsin State Assembly, on _____, 2008.

For: _____
Against: _____

THUS ADOPTED at the Regular Session of the Wisconsin State Assembly, on _____, 2008.

CLERK

SPEAKER of the ASSEMBLY