1997-98 SESSION COMMITTEE HEARING RECORDS

Committee Name:

Joint Committee on Finance

(JC-Fi)

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR_RCP_pt01a
- 97hrAC-EdR_RCP_pt01b
- 97hrAC-EdR_RCP_pt02

- *Appointments* ... *Appt*
-
- *Clearinghouse Rules* ... *CRule*
-
- *Committee Hearings* ... *CH*
-
- *Committee Reports* ... *CR*
-
- *Executive Sessions* ... *ES*
-
- *Hearing Records* ... *HR*
-
- *Miscellaneous* ... *Misc*
- *97hr_JC-Fi_Misc_June 1998_pt09*
- *Record of Comm. Proceedings* ... *RCP*
-

June 1998 13.10 requests

STATE OF WISCONSIN

Department of Employe Trust Funds

Eric O. Stanchfield
Secretary
801 West Badger Road
P.O. Box 7931
Madison, WI 53707-7931

April 23, 1998

THE HONORABLE SENATOR TIMOTHY WEEDEN
THE HONORABLE REPRESENTATIVE JOHN GARD
CO-CHAIRS
JOINT COMMITTEE ON FINANCE
STATE CAPITOL

APR 24 1998

Subject: S. 13.101 Request to Implement Remedy in Special Investment Performance Dividend (SIPD) Lawsuit

Dear Senator Weeden and Representative Gard:

The Department of Employe Trust Funds (Department) requests a supplement to appropriation s. 20.515(1)(w) in the amount of $359,800 (SEG). The purpose of this supplement, which I outlined in a letter to the Co-Chairs of the Joint Finance Committee dated October 1, 1997 (copy attached), is for costs associated with implementation of the remedy ordered by the Wisconsin Supreme Court in what has been termed the "special investment performance dividend" (SIPD) lawsuit[1]. A complete summary of this litigation may be found in Attachment 1.

Background

In January of 1997 the Wisconsin Supreme Court issued its decision in the SIPD litigation. The Court ruled the law authorizing the SIPD payments unconstitutional and remanded the case back to Dane County Circuit Court for determination of the repayment amount, the date at which SIPD payments would cease, amount of plaintiffs' attorney fees, and other matters. On September 3, 1997, the Circuit Court approved the terms of a final settlement. The resulting court order required the State to pay $215 million by December 1, 1998 and the Employe Trust Funds Board to make a timely equitable distribution of funds to eligible participants. To ensure that the Board and Department complied with the terms of the settlement and court order, immediate action was required. It was for that reason I wrote to the Committee last October informing the Co-Chairs of my intent to authorize the Department to incur costs which could not be absorbed within our existing appropriation.

[1] *Wisconsin Retired Teachers Association, Inc. v. Employe Trust Funds Board*, 207 Wis. 2d 1, 558 N.W.2d 83 (1997)

Justification for S. 13.101 Action

The classes certified by the court in this litigation were comprised exclusively of annuitants or beneficiaries of the Wisconsin Retirement System (WRS) as of July 1, 1987. The Department estimated that approximately 43,000 annuitants or beneficiaries were included in the classes at an average age of 78 years (this figure relates to the age of the original retiree; in some cases beneficiaries were children, other relatives, etc. who were considerably younger). Given the duration of the litigation and the age of the affected persons, we estimated that approximately 200 members of the affected groups were dying each month during 1997. The Circuit Court, Employe Trust Funds Board, Department and plaintiffs were unified in their belief that a court-ordered special distribution should occur at the earliest possible time. A delay in implementation would have meant that hundreds or possibly thousands of the eligible individuals would never have benefited from the remedy. I believed an emergency situation within the meaning of s. 13.101 existed.

The Department has absorbed significant expenses associated with the SIPD litigation since the case began over ten years ago. We continued to absorb many expenses from our existing operating budget appropriation throughout 1997 as the court required substantial information upon which to base its decisions. However, once the implementation of the remedy began in the fall of 1998, expenditures were required which could not be funded through existing appropriations. The detailed costs of implementation are identified in Attachment 2. The Department estimates that it absorbed an additional $100,800 in direct costs of implementation, plus extensive supervisory time, for which no reimbursement is sought as part of this request.

Summary of Project; Brief Description of Costs

Implementation of the remedy has required the Department to plan for three periods of time: (1) Initial Communication and Payment Phase; (2) Estate and Beneficiary Claim Phase; and (3) Wrap-up and Final Payment Phase. Although not planned at this time, it is possible that the Employe Trust Funds Board could in the future extend the time period for filing claims.

(1) **Phase I** (Oct. 1- Dec. 31,1997) FY 98 Requested Funding: $149,500

This phase involved notification of the Board's distribution decision along with a description of the impact on all annuitants and class members; the staffing of special information lines and preparation of correspondence; termination of the previous SIPD payments to 7,300 annuitants who had an estimated average age of 88; actuarial consultation; institution of new GPR-funded supplements as required under Wis. Act 26, Laws of 1997; and the calculation and payment of 43,000 lump sum payments.

(2) Phase II (Jan. 1, 1998 - Mar. 31, 1999) FY 98 Requested Funding: $210,300
(FY 99 funding to be requested in future)

This second phase requires development of a claim package for beneficiaries and estates of deceased eligible annuitants; publicizing and communication of information about filing claims; administration and payment of claims filed; preparation and distribution of tax documents; and the provision of general information and correspondence related to the claims process.

(3) Phase III (April 1, 1999 -June 30, 1999) (FY 99 funding to be requested in future)

This final phase will include processing the final batch of claim payments; preparation of remaining tax documents; and preparation of final documentation and reports.

All aspects of Phases I and II outlined above are on schedule at this time. Initial lump sum payments were made as planned and prior SIPD payments were ended as scheduled. Recently authorized GPR-funded supplements were put into effect as planned, thus enabling the Legislature's objective of preventing the reduction of income to the oldest group of retirees to be achieved. I am optimistic that remaining tasks will also be completed on schedule.

Although the project extends through June 30, 1999 I have requested funding at this time only for implementation costs through June 30, 1998. We currently estimate that an additional $512,400 may be required in fiscal 1999 to complete Phases II and III. This number will require further refinement as we develop experience working with estates, however, and could be either high or low. Therefore, I plan to address our funding requirements for the next fiscal year at a subsequent meeting when the full extent of the remaining workload has been determined.

Thank you for considering this request. David Stella, Administrator of the Division of Retirement Services, and Robert Weber, Chief Counsel, will be available at your meeting to answer any questions that you may have.

Sincerely,

Eric O. Stanchfield

Eric O. Stanchfield
Secretary

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EOS:jk
Enc.

STATE OF WISCONSIN
Department of Employe Trust Funds

Eric O. Stanchfield
Secretary
801 West Badger Road
P.O. Box 7931
Madison, WI 53707-7931

October 1, 1997

In Reply Refer To:

Honorable Scott Jensen
Honorable Brian Burke
Co-Chairs, Joint Committee on Finance
State Capitol
Madison WI 53702

COPY

Subject: Special Investment Performance Dividend Case

Dear Representative Jensen and Senator Burke:

I am writing in regard to the Department's need for additional expenditure authority to implement the remedy in the Special Investment Performance Dividend (SIPD) lawsuit as ordered in Dane County Circuit Court. I also want to apprise you of actions toward implementation which the Department must take to implement the court order even before your Committee meets under s. 13.101.

The final settlement, subsequent court approval of its terms and issuance of an order in this litigation were completed on September 3. The court order requires: (1) repayment of $215 million (which includes attorneys' fees) to the Wisconsin Retirement System (WRS) annuity reserve by November 1; (2) termination of the SIPD payments in annuity checks issued after November; and (3) an equitable distribution by the Employe Trust Funds (ETF) Board of the amount returned to the annuity reserve.

The Department, on behalf of the Board, is expected to take all steps necessary to implement the final order by the dates required. Implementation of the order in this extremely complicated case involving tens of thousands of elderly individuals will require the Department to incur significant unbudgeted expenditures from its general administrative SEG appropriation under s. 20.515(1)(w).

The remedy in this case directly affects all 95,000 currently retired members of the WRS, since all have an interest in the appropriate distribution of funds in the annuity reserve. As a result of the decision made on September 26, 1997 by the Employe Trust Funds Board, approximately 43,000 current annuitants will receive payments along with estates and beneficiaries of another 25,000 persons who have died during the litigation that will be eligible to receive payments. Department staff must explain and answer questions about the adjustments which will be made to monthly checks due to the combined effects of the terminating SIPD payments, adding the Board's distribution, and restoring previous GPR annuity supplements. This task would have been much more difficult were it not for the Legislature's passage of AB-534, assuming the bill becomes law in its present form.

Detailed information on our needs will be provided when our request is officially brought before the Committee, but I have summarized below the primary areas of expense:

- **Mailings and Information.** Given the complex nature of this case, the multiple effects on various groups and the age of the affected retirees, we anticipate significant expenses in this area. We must provide a notice of the decision to all 95,000 plus affected retirees, customize information regarding the impact of the court action on annuities, and locate and work with the estates and beneficiaries of 25,000 retirees who have died since the litigation began.

- **Actuarial Resources**. The court-ordered special distribution has already required substantial consultation by the Board's actuaries. In addition, they have performed a complete mid-year valuation of affected retired lives to enable the Board to determine the dollar amounts which may be paid with the available funds.

- **Claims Administration**. In order to provide access to the special distribution by estates and beneficiaries, a process must be devised and administered by which claims may be filed with and adjudicated by the Department. Counsel to the Board is currently exploring the legal requirements surrounding notification of estates and will advise the Board further. Additional legal resources may be required during the claim adjudication process which may last two years or longer.

- **Internal Administration**. The Department will incur expenses for telecommunications, computer programming, data entry, leasing additional space for short-term staff and providing them with the necessary equipment. While the Department will make use of experienced current staff wherever possible, additional contracted and possibly some short-term personnel will be necessary.

- **Legal Resources**. As a result of the complexity of this litigation and the numbers of persons affected, the Department anticipates that some retirees and beneficiaries will file appeals. Our current system is backlogged and this is likely to continue so for a significant time in the future given budgeted staff levels.

These are examples of the expenses we will incur. As mentioned above, we will provide further detail along with the formal request to the Committee when a s. 13.10 meeting is scheduled. However, to complete the actions required by the court-ordered deadlines, provide the notices and prepare for the large volume of questions which will be asked, it has been already been necessary for me to authorize work in several of these categories in recent weeks.

I'm certain you and other members of the Legislature share my concern and that of the Board that we manage this process well and take every reasonable step to communicate clearly with the elderly retirees who are affected by this decision.

Retirement Director Dave Stella will be available to answer any questions you have as well as the Department's Chief Counsel, Rob Weber.

Thank you. I look forward to the opportunity for the Department to appear before the Committee.

Sincerely,

Eric O. Stanchfield

Eric O. Stanchfield
Secretary

cc Sen. Chuck Chvala, Senate Majority Leader
Sen. Mike Ellis, Senate Minority Leader
Rep. Ben Brancel, Speaker
Rep. Walter Kunicki, House Minority Leader
Sen. Richard Grobschmidt, Co-Chair, Joint Committee on Retirement
Rep. Judith Klusman, Co-Chair, Joint Committee on Retirement
Bob Lang, Director, Legislative Fiscal Bureau
Mark Bugher, Secretary, Department of Administration
Richard Chandler, Budget Director, Department of Administration

STATE OF WISCONSIN
DEPARTMENT OF EMPLOYE TRUST FUNDS
P.O. Box 7931
Madison, WI 53707

Summary of the Wisconsin Supreme Court Decision in the Special Investment Performance Dividend (SIPD) Lawsuit[1]

In 1987, the Wisconsin legislature enacted 1987 Wis. Act 27, §§ 436m, 684r and 688km. These provisions required that certain undistributed earnings of the Public Employe Trust Fund be immediately recognized and distributed. The Act also ordered that the portion transferred to the Trust Fund's annuity reserve must be paid exclusively to retirees who were receiving certain supplemental benefits paid by the legislature from general purpose revenue (GPR). These supplemental benefits were payable only to annuitants who had retired prior to October 1, 1974. Thus, only about 20,400 of the 76,763 annuitants of the Wisconsin Retirement System (WRS) at that time were eligible for SIPD funded benefits. The legislation also ordered that an annuitant's supplemental benefits be reduced by the amount of SIPD payments he or she received.

Litigation began in 1988. The Wisconsin Court of Appeals decision was published at *Wisconsin Retired Teachers Ass'n., Inc., et al. v. Employe Trust Board, et al.*, 195 Wis. 2d 1001, 537 N.W.2d 400 (Ct. App. 1995). The Secretary of the Department of Administration and the State Treasurer (known as the "Administrative Defendants") petitioned the Wisconsin Supreme Court to review that decision. The plaintiffs, State Engineering Association, Wisconsin Retired Teachers Association and Wisconsin Education Association Council sought cross-review. On January 17, 1997, the Wisconsin Supreme Court released its decision modifying the Court of Appeals decision, affirming it as modified, and remanding the cause with directions. The Supreme Court decision is published as *WRTA v. Employe Trust Funds Board*, 207 Wis. 2d 1, 558 N.W.2d 83 (1997)

The Supreme Court found that the so-called "SIPD" legislation was an unconstitutional taking of private property without just compensation. However, the Supreme Court unanimously determined that the Secretary of the Department of Employe Trust Funds, the Employe Trust Funds Board and its named present and past members (the "ETF Defendants") did not violate their fiduciary duties by implementing the legislation. The Supreme Court ordered the Department of Administration Secretary and State Treasurer to return the amount of funds paid out pursuant to the SIPD legislation, together with interest at the "effective rate," to the annuity reserve account from the state treasury. The plaintiffs were awarded attorneys' fees in an amount

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[1] Updated April 23, 1998, to include citations to the published version of the Supreme Court decision.

to be determined by the trial court and payable out of the total recovery provided to the plaintiffs' class.

After reimbursement is made to the trust fund, the ETF Board is required to equitably distribute the recovery to annuitants, using its discretion.

UNCONSTITUTIONALITY OF THE LEGISLATION

The Supreme Court determined that the SIPD legislation was an unconstitutional taking of property without just compensation. The Supreme Court began its analysis by determining that the WRS annuitants have a property interest in the Wisconsin Retirement System (WRS)[2] [see 558 N.W.2d at 90-91]. The property interest arises from the requirements of Wis. Stat. § 40.19 (1) and the contract rights of annuitants to have dividends distributed consistent with Wis. Stat. § 40.27 (2). The Court concluded:

> These cases establish the property interest of WRS annuitants in the proper distribution of surplus investment earnings contained in the annuity reserve account.

Ibid., at 91.

The Supreme Court continued its analysis by determining that the SIPD legislation takes the plaintiffs' property interest to have annuity reserve account surpluses distributed by the ETF Board in the manner prescribed by Wis. Stat. § 40.27 (2). The earnings of the Public Employe Trust Fund are accumulated in a "transaction amortization account" (TAA) then distributed to the various accounts in the Trust on a proportional basis. The distribution process may create a surplus in the annuity reserve account from which annuity liabilities are paid. Surpluses are distributed to annuitants in the form of "dividends" increasing their monthly annuities. At the commencement of this litigation, and until amended in May 1996, Wis. Stat. § 40.27(2) provided:

> (2) Surpluses in the fixed annuity reserve established under s. 40.04(6) and (7) shall be distributed by the board if the distribution will result in at least a 2% increase in the amount of annuities in force, on recommendation of the actuary, as follows:

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2 The opinion cites and quotes *State Teacher's Retirement System v. Giessel*, 12 Wis. 2d 5, 106 N.W. 2d 301 (1960) and *Association of State Prosecutors v. Milwaukee County*, 199 Wis. 2d 549, 544 N.W. 2d 888 (1996).

(a) The distributions shall be expressed as percentage increases in the amount of the monthly annuity in force, including prior distributions of surpluses but not including any amount paid from funds other than the fixed annuity reserve fund, preceding the effective date of the distribution. For purposes of this subsection, annuities in force include any disability annuity suspended because the earnings limitation had been exceeded by that annuitant in that year.

(b) Different percentages may be applied to annuities with different effective dates as may be determined to be equitable but no other distinction may be made among the various types of annuities payable from the fixed annuity reserve.

(c) The distributions shall not be offset against any other benefit being received but shall be paid in full, nor shall any other benefit being received be reduced by the distributions. The annuity reserve surplus distributions authorized under this subsection may be revoked by the board in part or in total as to future payments upon recommendation of the actuary if a deficit occurs in the fixed annuity reserves.

The Supreme Court emphasized the ETF Board's discretion under Wis. Stat. § 40.27 (2):

> Section 40.27(2) grants the ETF Board the discretion to vary annuity reserve surplus distributions 'as may be determined to be equitable.' We read this section to execute an exclusive grant of discretionary authority to the ETF Board, and agree with the Administration Defendants that: '[a]bsent [an erroneous exercise] of that discretion, it is for the Board alone to determine how and in what proportion dividends are distributed.' Reply Brief at p. 10. Thus, on the facts of this case, Act 27 violates § 40.27(2) if it eliminates or limits the ETF Board's discretion to equitably vary the distribution of the $84.7 million annuity reserve surplus.

Ibid.

The Supreme Court found that there were several bases supporting the determination that the SIPD's limitation on the ETF Board's equitable authority under Wis. Stat. § 40.27 (2) violated the Constitution. First the Supreme Court found:

> The SIPD legislation mandated a distribution limited to pre-1974 annuitants, eliminating the ETF Board's equitable authority to grant a portion of the

> annuity reserve surplus to post-1974 retirees. On this basis, we concluded that Act 27 effected a violation of § 40.27(2).

Ibid., at 92.

In addition, the Supreme Court found that the SIPD legislation violates the "no offset" language in Wis. Stat. § 40.27(2)(c) because it reduced an annuitant's supplemental benefits, which were funded from general purpose revenue (GPR) rather than the Trust Fund, by the amount of the SIPD payments. The Supreme Court stated:

> We conclude that, by mandating an increase in a retiree's annuity-based benefits while simultaneously reducing his or her otherwise terminable supplemental benefits, the legislation violated the proscription against offsetting contained in § 40.27(2)(c).

Ibid.

Furthermore, the Supreme Court determined that the SIPD legislation's mandate of the $3.8 million reimbursement to GPR from the annuity reserve account for supplemental benefits made during the interim period between the effective date of the legislation and its implementation was unconstitutional. The Supreme Court stated:

> Section 40.27(2) governs the distribution of investment earnings of the annuity reserve, and it anticipates payments only to annuitants. The section is utterly devoid of any authority for using annuity reserve funds to reimburse a governmental entity for non-trust obligations. We therefore conclude that the Act further violated § 40.27(2) by mandating a reimbursement for interim GPR supplemental benefits, a non-trust obligation.

Ibid., at 92-93.

In addition to emphasizing the discretionary authority of the ETF Board, the Supreme Court also emphasized the state's obligation to honor its contractual commitment to the WRS. The Supreme Court stated:

> This court finds unpersuasive the Administration Defendants' undeveloped assertion that the State, as settlor of the FRIT *[Fixed Retirement Investment Trust]* trust fund, is empowered to unilaterally alter the terms of the WRS contract. The system of benefits provided by the Wisconsin Retirement System is no mere legislative gratuity. Rather, benefits are a form of deferred compensation for service provided. When a public employee chooses to take his or her retirement benefits in the

> form of an annuity, he or she is thereby guaranteed certain rights under the WRS contract. *See § 40.19(1).* One such right is to have investment earnings distributed in a manner consistent with § 40.27(2). As party to the WRS contract, the State is bound to honor that right.

Ibid., at 93.

The Circuit Court had originally ruled that the SIPD legislation violated both Article I, §12 of the Wisconsin Constitution (by impairing the contract between Wisconsin Retirement System annuitants and the State) and Article IV, §26, Wis. Const., (by granting extra compensation to SIPD recipients without paying for it from "state funds"). Article IV, § 26, of the Wisconsin Constitution is the "extra compensation" prohibition. It provides, in applicable part:

> The legislature may not grant any extra compensation to a public officer, agent, servant or contractor after the services have been rendered or the contract has been entered into. ... This section shall not apply to increased benefits for persons who have been or shall be granted benefits of any kind under a retirement system when such increased benefits are provided by a legislative act passed on a call of ayes and noes by a three-fourths vote of all the members elected to both houses of the legislature and such act provides for sufficient state funds to cover the costs of the increased benefits.

Wis. Const., Art. IV, § 26.

The Wisconsin Supreme Court did not reach these questions.

> Because we conclude that Act 27 is unconstitutional under Wis. Const. art. I, § 13, we do not reach the plaintiff's claims under Wis. Const. art. I, §12 and Wis. Const. art. IV, § 26.

Ibid., at 93, footnote 20.

FIDUCIARY DUTY

The Supreme Court determined that the ETF Defendants did not breach their fiduciary duties. The Supreme Court agreed with the Court of Appeals' decision and adopted the reasoning of the Court of Appeals as its own [see *Ibid.*, at 94]. The Supreme Court held:

> When the ETF Defendants perceived a potential conflict between the Act 27 provisions and the existing trust instrument, they sought and received the opinion of the attorney general. They then fully implemented the Act in good-faith reliance on the attorney general's opinion that the legislation was constitutional. By implementing the SIPD legislation, the trustees were complying with the statute as written.

Ibid., at 94, citing *Retired Teachers Ass'n*, 195 Wis. 2d at 1041, 537 N.W.2d 400.

The Supreme Court went on to conclude:

> We take this opportunity to supplement the *Morse* decision, concluding that on these facts, the trustees upheld their fiduciary duties by implementing Act 27 in good-faith reliance on the opinion of constitutionality rendered by the attorney general. Accordingly, we determine that the ETF Defendants did not breach their fiduciary duties by implementing Act 27 without first obtaining a court determination that the statute was constitutionally valid.

WRTA v. ETF Board, 558 N.W.2d at 94. The reference is to *State ex rel. Morse v. Christianson*, 262 Wis. 262, 55 N.W.2d 20 (1952), on which the circuit court had relied to hold that the trustees had a duty to seek court guidance prior to implementing legislation of doubtful constitutionality.

In implementing the SIPD legislation, the enhanced annuity benefits paid to pre-1974 annuitants included both $78.6 million directly distributed to the annuity reserve by the SIPD legislation plus a $6.1 million surplus then existing in the annuity reserve. The Supreme Court specifically rejected WEAC's argument that the ETF Defendants breached their fiduciary duty by including the pre-existing $6.1 million in the SIPD distribution. The Supreme Court stated:

> Thus, Act 27 triggered a mandatory distribution of the $6.1 million. Furthermore, there is no statutory authority for bifurcating the annuity reserve surplus into $78.6 million and $6.1 million surpluses, with a different distribution scheme for each. We therefore conclude that Act 27 caused the pre-existing $6.1 million surplus to be included in the unconstitutional SIPD payment framework.

WRTA v. ETF Board, 558 N.W.2d at 94, footnote 21.

SOVEREIGN IMMUNITY

The Supreme Court determined that sovereign immunity does not bar the plaintiffs' claims under the takings clause because that constitutional provision is a self-executing waiver of sovereign immunity [see *Ibid.*, at 95].

NOTICE OF CLAIM

The Supreme Court concluded that Wis. Stat. § 893.82, which generally requires a notice of injury as a precondition to money damages in a claim against state employes, does not apply in the taking context. The plaintiffs' claim for just compensation is not barred by their failure to file a notice of injury [see *Ibid.*, at 95 and also footnote 24].

REMEDY

The Supreme Court acknowledged that just compensation is the constitutionally prescribed remedy for the taking of the plaintiffs' property interest in the earnings of the annuity reserve account [see *Ibid.*, at 95]. The Supreme Court stated:

> Applying that principle to this case, we determine that just compensation is required to the extent of any diminishment of the balance of the annuity reserve caused by Act 27.

Ibid.

The Supreme Court agreed with the Court of Appeals that the Circuit Court erred in ordering a minimalist remedy. However, the Supreme Court also decided that the Court of Appeals erred when it limited just compensation only to the portion of SIPD payments that replaced GPR expenditures [see *Ibid.*, at 95-96]. The Supreme Court determined that:

> Because all SIPD payments were made in derogation of the plaintiffs' right to have annuity reserve payments made consistent with § 40.27(2), just compensation requires that all such payments be returned to the annuity reserve. Similarly, because the reimbursement to GPR also violated § 40.27(2), the amount reimbursed must also be returned to the annuity reserve.
>
> * * *
>
> We therefore conclude that just compensation requires the following: 1) the Administration Defendants shall pay from the State treasury to the annuity reserve account an amount equal to all SIPD payments made out of

> the annuity reserve; 2) any undistributed portion of the SIPD remaining in the annuity reserve shall be unencumbered by the provisions of Act 27; 3) the ETF Board shall distribute the amount recovered and any undistributed SIPD in its equitable discretion.

Ibid., at 96.

The Supreme Court also rejected the Administration Defendants' argument that a recovery of all payments made under the SIPD legislation would over-compensate the plaintiffs for any taking. In rejecting the Administration Defendants' claim, the Supreme Court emphasized the discretion of the ETF Board:

> We decline the defendants' invitation because it is impossible to know how the ETF Board would have equitably distributed the $84.7 million annuity reserve surplus. The Board might have distributed the surplus in precisely the manner mandated by Act 27, or it might have given no portion of the surplus to any SIPD recipient. The point is, it is for the Board alone to equitably distribute any surplus in the annuity reserve. This court has neither the inclination nor the expertise to substitute its estimate of an equitable distribution for that of the ETF Board.

Ibid.

INTEREST

The Supreme Court determined that the just compensation principle includes interest on the value of property from the date of taking, [see *Ibid.*], and that the plaintiffs are entitled to interest at the effective rate, as defined in Wis. Stat. § 40.02(23) [see *Ibid.*, at 97]. The "effective rate" is based upon the actual investment performance of the Public Employe Trust Fund and thus varies from year to year. For the years 1987 through 1995 the fixed division effective rates were, respectively, 14%, 10.2%, 18.1%, 8.6%, 12.1%, 10.2%, 11%, 7.7% and 11.3%. The rate for 1996 had not yet been established at the time of the Supreme Court decision.[3] The Supreme Court concluded:

> Consistent with the argument advanced by the ETF Defendants, we conclude that effective rate is the most accurate reflection of the annuity reserve's lost earnings.

Ibid.

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[3] The 1996 fixed division effective rate was subsequently established as 12.5%.

However, the Supreme Court recognized that the SIPD payments were paid out over time and not in one lump sum. Accordingly, the Court concluded that the Administration Defendants were required to pay from the state treasury interest at the effective rate on the SIPD payments and on the $3.8 million reimbursement from the date that those funds actually left the annuity reserve [see *Ibid.*].

ATTORNEYS' FEES

The Circuit Court had ruled that in implementing the SIPD legislation, the defendants breached their fiduciary duty and this rose to the level of mismanagement of the Trust, thereby entitling plaintiffs to an award of attorney fees under Wis. Stat. § 814.14. The Court of Appeals decision reversed the finding of breach of fiduciary duty. Attorney fees were instead awarded to plaintiffs under the "common fund" doctrine, which did not depend on any misconduct by the defendants. The Supreme Court affirmed, adopting the common fund doctrine for the first time in Wisconsin [see *Ibid.*, at 98-99].

The Supreme Court provided the Circuit Court with discretion to base its award of attorneys' fees on either a percentage of the fund recovered or the lodestar method of a reasonable hourly rate multiplied by a reasonable number of hours [see *Ibid.*, at 99]. The Supreme Court also determined that the Circuit Court must deduct the amount of attorneys' fees from the total award and order the balance deposited in the annuity reserve account [*Ibid.*].

REMAND TO CIRCUIT COURT

The Supreme Court remanded the proceeding to the Circuit Court to enter judgment as follows:

> On remand, the circuit court is directed to enter judgment declaring that Act 27 and its implementation unconstitutionally take without just compensation the plaintiffs' property interest in the proper distribution of the earnings of the annuity reserve account. The court shall declare invalid and enjoin further implementation of the Act, and shall order the Administration Defendants to pay from the State treasury to the annuity reserve account, the following: an amount equal to all distributed SIPD payments, plus the $3.8 million reimbursement to GPR, plus interest at the effective rate on all payments from the date that the payments left the annuity reserve account. The court shall further declare any portion of the $84.7 million remaining in the annuity reserve account free from the encumbrances of Act 27. The court shall calculate the plaintiffs' reasonable attorney fees, and shall order the fee award deducted from the sum repaid to the annuity reserve account. Finally, the court shall order

> the ETF Board to equitably distribute the balance of the recovery, including interest, plus any remaining SIPD balance in the annuity reserve account.

Ibid.

The Supreme Court specifically determined that the ETF Board must equitably distribute the balance of the recovery, "notwithstanding any present language in § 40.27(2) to the contrary." See *Ibid.*, at 96, footnote 25, and 99.

The case was remanded to the Dane County Circuit Court (Judge Angela Bartell). The Supreme Court left it to the circuit court to establish the exact amount to be refunded to the Annuity Reserve of the Public Employe Trust Fund. Further litigation was avoided when the parties reached a settlement resolving both the amount to be refunded to the Annuity Reserve ($206,612,598) and the amount to be awarded as plaintiffs' attorney fees ($8,387,402), thereby avoiding further litigation. The Court approved the settlement and issued it "Final Order and Judgment" on September 3, 1997. The State of Wisconsin subsequently paid the $215 million total.

The Employe Trust Funds Board held a number of special, public meetings to reviewed alternative plans and consider how to distribute the recovered funds equitably. At its meeting on September 26, 1997, the Board adopted its plan. The $206,612,598 recovered to the fixed annuity reserve of the Public Employe Trust Fund as a result of the judgment was to be distributed so as to closely approximate the adjustments to Wisconsin Retirement System fixed annuities in force during 1987 that would have occurred if the monies in (and transferred into) the annuity reserve had not been encumbered and distributed as a result of the "special investment performance dividend" (SIPD) legislation. The Board's distribution has two components: (1) a prospective increase of annuities with an effective date before November 2, 1987; and, (2) a lump-sum payment based on the Board's approximation of what would have been paid in the absence of the SIPD legislation if the funds had been applied to increase the post-retirement annuity adjustment effective on April 1, 1988 ("the April 1, 1988, adjustment"). The Board also authorized interest to be paid on the lump-sum payments.
Annuities were adjusted as of December 1, 1997. Claims for lump-sum payments continue to be made and paid. The deadline for claims is March 31, 1999.

RFW: January 24, 1997 [updated April 23, 1998]

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Attachment 2

Description	Budget - FY98
Permanent Salaries Extra hours of permanent staff in the records management section to retrieve folders for claims payment and review. Overtime for permanent benefit payment staff to manually process lump sum payments in time for the December, 1997 distribution.	$ 6,300
Limited Term Salaries Limited Term employe needed for maintenance of Department participant, employer and correspondence filing systems for the SIPD project. Duties include filling requests for participant records and/or other information, and completing retrieval request forms for closed SIPD records stored at the State of Wisconsin Records Center.	$ 4,600
Fringe Benefits	$ 200
Total Personal Services	**$11,100**
Board Member Travel Special SIPD board meetings to determine and approve the distribution methodology and implementation timeline.	$ 3,100
Fleet Car Mileage Mileage to transport folders and supplies to SIPD Downtown Office.	$ 100
Telephone Services Telephone Equipment, Local, and Long Distance Service; Voice Mail for SIPD Downtown office	$ 4,000
Space Rental Office space and associated costs for SIPD Downtown office.	$22,400
Computer Supplies Computer Supplies and Software for SIPD contractual staff	$7,000
Actuarial Services Services included provision of actuarial cost estimates for various distribution methodologies for Board decision; calculation of final cost of the actual distribution to participants.	$43,200

Description	Budget - FY 98
Temporary Help Services Contract with DI & Associates (minority business) to provide staffing to implement the SIPD equitable distribution. Duties include answering questions concerning eligibility for SIPD distribution and processing the claim forms to calculate the lump sum payments.	$140,600
Postage Including but not limited to: 95,000 letters explaining the Board's distribution decision, Oct. 97 ($24,700); 86,000 letters identifying change in annuity payment, Nov./Dec. 97 ($25,400); 1099R's ($28,400); 30,000 letters to last known address, June, 98 ($8,500); SIPD Checks; claim packets and correspondence.	$106,100
Copier and Fax Rental for SIPD Downtown office	$ 2,500
State of Wisconsin Records Center Charges Charges to retrieve participant folders.	$ 2,300
Quick Copy/Printing Charges Printing charges for letters and envelopes.	$14,500
Office Supplies	$ 2,900
Total Supplies & Services	**$348,700**
Grand Total Personal Services and Supplies & Services	**$359,800**

Preliminary Estimates - FY 99

Description	Budget - FY 99
Permanent Salaries Extra hours of permanent staff in the records management section to retrieve folders for claims payment and review.	$ 8,400
Limited Term Salaries Limited Term employe needed for maintenance of Department participant, employer and correspondence filing systems for the SIPD project. Duties include filling requests for participant records and/or other information, and completing retrieval request forms for closed SIPD records stored at the State of Wisconsin Records Center.	$ 6,800
Fringe Benefits	$2,300
Total Personal Services	**$17,500**
Fleet Car Mileage Mileage to transport folders and supplies to SIPD Downtown Office	$ 1,400
Telephone Local ,Long Distance and Voice Mail for SIPD Downtown Office	$ 5,500
Space Rental Office space and associated costs for SIPD contractual staff.	$30,500
Computer Supplies Computer Supplies for SIPD staff	$1,300
Actuarial Services Post-implementation review of undistributed dividends.	$ 5,000
Temporary Help Services Contract with DI & Associates (minority business) to provide staffing to implement the SIPD equitable distribution. Duties include answering questions concerning eligibility for SIPD distribution and processing the claim forms to calculate the lump sum payments.	$249,800

Description	Budget - FY 99
Locator Services Contract for services to locate beneficiaries and/or heirs of deceased annuitants.	$140,000
Postage SIPD letters, claim packets and correspondence.	$ 26,800
Copier and Fax Rental for SIPD Downtown office	$ 2,500
State of Wisconsin Records Center Charges Charges to retrieve participants folders	$ 24,000
Quick Copy/Printing Charges	$ 6,200
Office Supplies	$ 1,900
Total Supplies & Services	**$494,900**
Grand Total Personal Services and Supplies & Services	**$512,400**

Summary of Hours Worked and Salary Cost Absorbed by the Department

FY8	Hours	Cost
Division of Retirement Services		
Benefits Payment Bureau	730	$ 13,100
Retirement Services Bureau	2213	$ 30,700
Member Services Bureau	566	$ 13,000
Subtotal	**3509**	**$ 56,800**
Division of Administrative Services		
Staff Services Bureau	**55**	**$ 757.79**
Division of Information Technology		
Application Development Bureau	**2232**	**$ 43,200.00**
Total		**$100,757.79**

FY99	Hours	Cost
Division of Retirement Services		
Benefits Payment Bureau	120	$ 2,600
Retirement Services Bureau	822	$ 11,900
Member Services Bureau	68	$ 1,700
Subtotal	**1010**	**$ 16,200**
Division of Information Technology		
Application Development Bureau	**298**	**$6,200.00**
		$ 22,400

Note: Supervisory time is not included.

State of Wisconsin

JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS
AND THE RETIREMENT RESEARCH COMMITTEE

Scott L. Dennison, FSA, MAAA
Now retired: BLAIR L. TESTIN
RESEARCH DIRECTOR
ROOM ~~316~~ 722, 110 E. MAIN STREET
MADISON WISCONSIN 53703
(608) 267-0507
FAX (608) 267-0675

April 23, 1998

The Honorable Timothy Weeden
Wisconsin State Senate
1 East Main Street, Room 203
P.O. Box 7882
Madison, WI 53707

The Honorable John Gard
Wisconsin State Assembly
State Capitol Building, 315-N
P.O. Box 8952
Madison, WI 53708

re: Request for Additional Funding under Section 13.10 of Wisconsin Statutes

Dear Senator Weeden and Representative Gard:

The office of the Joint Survey Committee on Retirement Systems and the Retirement Research Committee is in a financial crisis, primarily caused by filling the position of Retirement Research Director after it had remained vacant for more than a full two year budget cycle. This process has disrupted the continuity of the office's budget, and has also introduced some one-time expenses that were not anticipated in our present biennial budget.

Mr. Blair Testin retired from this position on June 30, 1995, and the position remained unfilled until I replaced him on December 1, 1997. In the meantime, Mr. Testin worked about one quarter time as a consultant, performing only the most essential duties of this position.

For our office to continue its operation through the end of the current fiscal year, we will need approximately $16,427 more than now remains in our fiscal 1998 budget, and for operation through fiscal 1999 will need approximately $61,507 more than has been allocated to our office under its fiscal 1999 budget. <u>By this letter, I am appealing under Wis. Stats. s. 13.10 for this additional funding.</u>

Details of our situation for fiscal 1998 and fiscal 1999 appear in the attached Tables 1 and 2. In these tables, each type of expense anticipated during the remainder of fiscal 1998 and for all of fiscal 1999 is characterized as either Type A, B, or C, as follows:

Type A: Existing obligations that must be paid.

Type B: Essential items that have not yet been contracted as a formal obligation.

Type C: Expenses that will eventually become necessary, but that can presently be deferred.

The attached Table 3 is provided to give you an overall picture of our office's expenses before, during, and after the two and one-half year period during which this office functioned without a full time director. Table 3 shows a summary of our office's actual expenditures for fiscal years 1994 through 1997, its estimated expenditures for fiscal 1998 and 1999 (which correlate with Tables 1 and 2), and its projected expenses for the fiscal 2000-2001 biennium.

This Section 13.10 appeal is an unusual occurrence for our office. During Blair Testin's more than twenty years as Director of Retirement Research, the office's use of this appeal procedure was limited to getting additional funds to pay actuaries to do special studies.

Please note the following circumstances affecting the amounts being requested in this appeal:

1. Mr. Testin's annual salary was less than $60,000. In 1997 the legislature reclassified the director's position. As a result of this, certain actuarial duties were added to the position responsibilities, and they hired me at a salary of $75,000. Of course, this salary differential and the associated fringe benefit costs were not anticipated in our present budget.

2. During my period of familiarization with the Wisconsin Retirement System (WRS), we will continue to need Mr. Testin's expertise from time to time. Therefore, in this request I have included 15 hours of his time as a consultant through the end of fiscal 1998 plus 25 hours for fiscal 1999, coded as a priority level "B" expense.

3. Reimbursable interview and moving expenses ($4,144) for the new director are included in this request. (I have been carrying this amount on my credit card since last October.)

4. Fees for actuarial studies are now budgeted for at the rate of $30,000 each biennium. A single study in late 1997 cost $25,000, leaving only $5,000 budgeted for studies through the end of fiscal 1999. We have now been directed by Speaker Jensen to obtain another study, expected to cost $5,000. Therefore, filling the Speaker's request will exhaust our biennial budget allotment for actuarial studies.

   With high interest in a benefits improvement bill and other proposals affecting the WRS, we will almost surely need more actuarial studies next year. However, since these are speculative at this time, they are excluded from this present request. We will request money to pay for further studies in 1999 when and if the need actually arises.

5. This office is small, with a staff of three, and has been very frugal in its use of equipment. By not purchasing equipment on a regular basis, the office lost its "Permanent Property" budget line in fiscal 1996. Neither our fax machine nor copier have a sheet feeder, so that single sheets of paper must be fed manually to these machines. The fax has become temperamental, often refusing to accept hand-fed sheets of paper. Since our main business is producing information and reports, we really need to replace this outdated equipment as soon as possible. Accordingly, I have included requests for modest upgrades of both a fax machine and a copier in this petition, coded as priority "B" items.

6. We want to improve our value to the state by using the PC for publishing and archiving, as well as for doing in-house actuarial studies. Besides computerizing the Retirement Research Committee's biennial *Comparative Study of Major Public Employee Retirement Systems*, we want to begin publishing a newsletter on pension issues for legislators and others, and to "image" (archive on compact disks) our office's library of pension information, official documents, and so on. To do this, our staff needs some computer training.

   For my own actuarial studies of the WRS, I need to use a library of computer spreadsheets based on software that is incompatible with the state's computer system. A laptop computer would be a practical way for me to do these studies, as well as being very useful for presentations to the JSCRS and RRC, to retiree groups, etc. Therefore, I am requesting as "priority B" a laptop computer with a zip drive for handling very large WRS data files. These needs are all reflected in this budget request for fiscal 1999 (see Table 2).

7. The Retirement Research Committee has been inactive for the past two years (or longer), and needs to be reactivated as soon as possible. We anticipate quarterly RRC meetings, and have included the expenses of these meetings as priority "B" items in this request.

8. Mr. Testin was active in several national public pension organizations, attending up to five meetings annually. This request anticipates my continuing to represent Wisconsin in these organizations, attending three meetings of national organizations in most years.

I trust that this information is clear and sufficient for your needs in considering this appeal for additional funding. If you need further information, please contact me at (608) 266-5251.

Thank you for your time and consideration in this matter.

Sincerely,

Scott L. Dennison

Scott L. Dennison, FSA, MAAA
Director of Retirement Research
JSCRS/RRC

Attachments

cc: Representative Judith Klusman and Senator Brian Rude (Co-Chairs, JSCRS)
Robert Lang and Tony Mason (Legislative Fiscal Bureau)
Daniel Caucutt (Budget Office, Department of Administration)

Joint Survey Committee on Retirement Systems/Retirement Research Committee

Table 1. Detail of Fiscal 1998 Expenditures

"Past" period = 6/30/97 to 4/22/98 "Future" period = 4/23/98 to 6/30/98

Budget Line	Annual Budget Allotment	FY 1998 Expenses Past	FY 1998 Expenses Future	Budget short-fall	Future Expense Type*	Comment
PERMANENT SALARIES	$98,900	$74,633	$32,474	$8,207	A	Lost $7,700 to S&S line
FRINGE BENEFITS	38,100	31,899	10,113	3,912	A	
ACTUARIAL SERVICES	30,000	25,000	5,000	0	B	A.B. 331 to be studied
SUPPLIES & SERVICES	$28,700	$21,000	$12,008	$4,308		Got $7,700 from Salary
Rent	--	8,365	1,718	--	A	
Consultant Fees	--	7,665	450	--	B	For Blair Testin
SLD Intervw/Move	--	0	4,144	--	A	Reimburseable expense
Travel, Out State	--	0	1,075	--	A	EA Meeting (3/98)
Travel, Out State	--	0	1,340	--	B	GFOA meeting (6/98)
Registration Fees	--	0	575	--	A	EA Meeting (3/98)
Registration Fees	--	0	310	--	B	GFOA meeting (6/98)
Membership Dues	--	100	710	--	A	SOA,AAA (overdue), ASPA
JSCRS Meetings	--	176	56	--	A	If 1 "future" meeting
RRC Meetings	--	0	550	--	B	If 1 "future" meeting
DOA Services	--	820	0	--	A	
Telephone	--	854	375	--	A	
Electricity	--	276	105	--	A	
Copier, Rent	--	124	84	--	C	We own our simple
Copier, Maintain	--	67	60	--	B	copier, since midyear
Subscriptions	--	280	0	--	B	
Supplies, Forms	--	239	150	--	B	
Travel, In State	--	0	60	--	B	
P&L Insurance	--	172	0	--	A	
Postage & Freight	--	38	19	--	A	
Printing	--	272	0	--	B	
Voice Mail	--	161	54	--	A	
Maintenance	--	145	73	--	A	
Miscellaneous	--	1,245	100	--	B	Past = balancing item
PERMANENT PROPERTY	(None)	$0	$0	(None)		
Furniture	--	0	0	--	n/a	
Office equipment	--	0	0	--	n/a	
Computer equip.	--	0	0	--	n/a	
COLUMN TOTALS	$195,700	$152,532	$59,595	$16,427		

Future expenses, type "A":	$51,491
Future expenses, type "B":	8,020
Future expenses, type "C":	+ 84
Total expenses during rest of FY98:	$59,595
- Remaining budget allotment:	-43,168
Section 13.10 request for FY 1998:	***$16,427***

* Meaning of expense "type" (above)
A: Needed and already a commitment
B: Needed, not yet a commitment
C: Desirable, but can be deferred

Joint Survey Committee on Retirement Systems/Retirement Research Committee

Table 2. Detail of Fiscal 1999 Expenditures

Budget Line	Annual Budget Allotment	Projected FY 1999 Expense	Budget short-fall	Expense Type*	Comment
PERMANENT SALARIES	$106,600	$140,693	$34,093	A	
FRINGE BENEFITS	38,100	50,296	12,196	A	
ACTUARIAL SERVICES	0	0	0	B	
SUPPLIES & SERVICES	$21,000	$28,240	$7,690		
Rent	--	10,386	--	A	
Consultant Fees	--	750	--	B	For Blair Testin
Travel, Out State	--	1,750	--	A	ASPA meeting (10/98)
Travel, Out State	--	3,500	--	B	GFOA, NCPERS (spring)
Registration Fees	--	595	--	A	ASPA meeting (10/98)
Registration Fees	--	660	--	B	GFOA, NCPERS (spring)
Membership Dues	--	1,020	--	A	Actuar'l, GFOA, NCPERS
JSCRS Meetings	--	354	--	A	6 meetings expected
RRC Meetings	--	2,312	--	B	4 meetings expected
DOA Services	--	854	--	A	
Telephone	--	1,410	--	A	
Electricity	--	400	--	A	
Copier, Rent	--	336	--	C	Need a better copier
Copier, Maintain	--	180	--	A	
Subscriptions	--	480	--	B	Essential periodicals
Subscriptions	--	250	--	C	Desirable periodicals
Classes/Books	--	550	--	A	Required classes
Classes/Books	--	329	--	B	Needed, not required
Classes/Books	--	129	--	C	Desirable classes
Supplies, Forms	--	447	--	B	
Travel, In State	--	240	--	B	
P&L Insurance	--	181	--	A	
Postage & Freight	--	450	--	B	
Printing	--	500	--	C	PERS study, newsletter
Voice Mail	--	237	--	A	
Maintenance	--	100	--	A	
Miscellaneous	--	1,128	--	B	
PERMANENT PROPERTY	(None)	$6,691	$6,691		
Laptop, zip drive	--	3,556	--	B	Studies, presentations
PC desk, shelves	--	500	--	B	For director's use
Basic fax machine	--	250	--	B	With a sheet feeder
Humidif, shredder	--	200	--	C	For health, security
Imaging equipment	--	2,185	--	C	For archiving files
COLUMN TOTALS	$165,700	$227,207			

FY99 expenses, type "A":	$209,005
FY99 expenses, type "B":	14,602
FY99 expenses, type "C":	+ 3,600
Estimated FY 1999 expenses:	$227,207
- FY 1999 budget allotment:	-165,700
Sec 13.10 request for FY99:	***$61,507***

* Meaning of expense "type" (above)
A: Needed and already a commitment
B: Needed, not yet a commitment
C: Desirable, but can be deferred

Table 3. Summary of Expenditures, FY 1994 - FY 2001

Budget Line	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
					Estimated for FY 1998-2001			
PERMANENT SALARIES	$108,523	$118,506	$65,519	$63,452	$107,107	$140,693	$144,916	$149,265
FRINGE BENEFITS	37,750	45,026	26,988	24,911	42,012	50,296	51,147	53,360
ACTUARIAL SERVICES	27,400	0	20,700	0	30,000	20,000	15,000	15,000
SUPPLIES & SERVICES	$16,977	$16,947	$24,036	$35,082	$32,924	$28,312	$28,898	$30,260
Rent	9,388	9,388	9,669	9,959	10,083	10,386	10,697	11,018
Consultant Fees	0	0	9,457	17,962	8,115	750	0	0
SLD Interview/Move	0	0	0	0	4,144	0	0	0
Travel, Out State	2,270	1,332	0	1,054	2,415	5,250	4,830	5,070
Registration Fees	450	0	0	0	885	1,255	1,350	1,420
Membership Dues	242	235	240	285	810	1,020	1,010	1,060
JSCRS & RRC Meetings	365	104	282	194	782	2,666	2,800	2,940
DOA Services	0	528	566	595	820	854	944	1,035
Telephone	848	865	1,059	993	1,229	1,410	1,550	1,660
Electricity	352	203	235	280	381	400	420	440
Copier, Rent	0	373	373	373	124	0	370	370
Copier, Maintain	0	56	163	151	127	180	220	260
Subscriptions	405	893	325	770	280	480	810	845
Classes/Books	66	329	105	69	0	879	506	100
Supplies, Forms	277	735	255	723	389	447	716	752
Travel, In State	64	169	0	0	60	240	290	350
P&L Insurance	643	209	179	132	172	181	190	199
Postage & Freight	212	191	186	488	57	450	60	500
Printing	0	284	0	378	272	0	525	551
Voice Mail	264	288	252	252	215	237	320	330
Maintenance	101	0	0	0	218	100	110	120
Miscellaneous	1,030	765	690	424	1,345	1,128	1,180	1,240
PERMANENT PROPERTY	$3,513	$5,160	$97	$6,603	(None)	$4,206	$3,704	$1,820
Furniture	0	5,160	0	0	0	400	1,200	1,320
Office Equipment	0	0	0	0	0	250	210	0
Computer related *	3,513	0	97	6,603	0	3,556	2,294	500
TOTAL EXPENDITURES	$194,163	$185,639	$137,340	$130,048	$212,043	$243,607	$244,663	$249,705

Any "Type C" expenses from Tables 1 and 2 are excluded from this table's FY98-99 estimates, but are included (with 5% inflation added) in the first subsequent year.

* Computer equipment ($6,603) was paid for by the DOA in FY97. This is included in the $130,048 "Total Expenditures" for FY97. We have lost our "Permanent Property" budget allocation.

State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Leean, Secretary

April 24, 1998

The Honorable Timothy Weeden
Senate Co-Chair, Joint Committee on Finance
Room 203, 1 East Main Street
Madison, WI 53702

APR 24 1998

The Honorable John Gard
Assembly Co-chair, Joint Committee on Finance:
Room 316 North Capitol
Madison, WI 53702

Dear Senator Weeden and Representative Gard:

The Department requests authorization under s. 13.10, Wisconsin Statutes, for 0.5 permanent and 0.5 two-year project GPR FTEs, funded under s. 20.435(3)(cw), to assist in the development and implementation of the Child Protective Services Information System. In a separate action, the Department will request 1.0 FED FTE from the Department of Administration under s. 16.50(3) to match these positions to create a total of two positions. The Department will pay the GPR cost of the positions from existing funding.

Background

On January 1, 1998, the Department assumed responsibility for the administration of child protective services (CPS) in Milwaukee County. Due to the magnitude and complexity of the Milwaukee CPS program, an automated case management system is critical to the effective management of the program. The information system developed for Milwaukee CPS will be available to all counties in the state as the State Automated Child Welfare Information System (SACWIS).

In December 1996 the Joint Finance Committee approved, with some minor modifications, the Department's plan for a Milwaukee CPS information. Based on that plan the Department concluded a contract in February 1997 with a vendor, Brainstorm, and work began on the information system. Included in the plan approved by the JFC was funding for two program staff to provide program expertise in the development of the information system. However, the Department did not need to create two new program staff positions because these functions were filled through other mechanisms, including a county interchange arrangement which provided county CPS staff to work on this project

In December 1997 the Department terminated the contract with Brainstorm due to non-performance. The Department is in the process of seeking to conclude a contract with a new vendor. As envisioned under the original plan, two program staff will be needed to assist in the development of the information system with the new vendor. The program staff utilized with the original vendor are no longer available to work in this capacity. Therefore, the Department will need to create two positions to be able to hire individuals. Because these activities are considered an administrative expense under the federal IV-E foster care program, the positions can be funded 50% GPR/50% FED IV-E funds.

Description of Positions

The Department is requesting authorization for 0.5 permanent and 0.5 two-year project GPR FTEs under s. 13.10 and will request 1.0 matching FED FTE from the Department of Administration under s. 16.50(3) to create a total of two positions. The two positions include a permanent Program and Planning Analyst 6 and one project Program and Planning Analyst 5. The positions will be filled by individuals with line worker, supervisory or management experience in the child protective services system who have direct knowledge of child protective services system practices and procedures from a social services standpoint and who have some background in automated systems. These individuals are not technical staff and will not be doing information systems design and programming. The two positions will work with the contractor's technical staff in designing the system to meet the needs of county and state staff users.

The Department has developed the following timetable to proceed as expeditiously as possible to conclude a contract with a new vendor. The Department expects to: have DOA and federal approval to issue the Request for Proposals (RFP) by mid May; release the RFP and have all bids received and evaluated by early July; and sign a contract prior to September 1. The two positions described in this request need to be involved in the steps that will be undertaken between now and September. Specifically, during this period they need to:

- become knowledgeable in the Child Welfare Program run by the Bureau of Milwaukee Child Welfare(BMCW) before the vendor is selected;
- acquire an in-depth expertise in the business of the safety services and the out-of-home care services components of the Milwaukee Child Welfare program so as to be able to take the lead on theses areas with the vendor;
- spend time at the BMCW sites in Milwaukee and establish relationships with the Site managers;

- acquire a clear understanding of the business requirements and the current practice in BMCW to facilitate program design with the vendors;
- have program responsibility for evaluation of vendor system demonstrations;
- participate in defining the business requirements for the system and writing a system analysis document between release of the RFP and concluding the vendor contract;
- evaluate vendor responses; and
- participate in negotiations with the vendors.

The program input of the proposed positions is critical to the success of the information system. Unlike the technical staff who are responsible for working with the contractor to develop and design system alternatives, develop cost/benefit analysis documents, review and approve system specifications and prepare project status reports, program staff will be responsible for assuring that all federal and state program requirements are met when the information system is operational. After the initial activities described above, the program positions will assist in the review of deliverables prepared by the contractor, comparing them to program requirements and preparing exception and/or deficiency reports. They will develop test procedures and assist in user and acceptance testing and evaluate system effectiveness. They will provide the contractor with clarification, consultation and interpretation for all current administrative regulation, child protective services and adoption practice and policy and statutory requirements.

One position is permanent to provide ongoing program expertise even after the system is developed. Like other major state-run systems, it is expected that the information system will have to be refined continuously to reflect changes in federal requirements, changes in Milwaukee CPS business practices or service delivery designs, and to help correct any flaws or problems in the functioning of the information system. The permanent staff position will provide the program expertise needed to carry out these ongoing information system activities.

The Department has had federal approval for planning and development work on SACWIS. The federal Administration for Children and Families has stated that the Department's current level of program staffing for SACWIS is not sufficient. They strongly recommended, based on the experience of other statewide SACWIS projects, that more program staff be added to the development of Wisconsin's child protective services system. Vacancies in both the Bureau of Milwaukee Child Welfare and the Bureau of Information Systems have been reviewed for potential redeployment to SACWIS. Given the caseloads in Milwaukee and continuing efforts to fill state intake and assessment and program evaluation staff positions, the Department does not believe that any of these positions should be redeployed. They are needed to carry out the operational activities in Milwaukee. As part of the 1997-99 biennial budget 6.0 FTEs were redeployed from the Bureau of Information Systems (BIS) to provide ongoing technical support to SACWIS. The Department continues to recruit aggressively for information technology positions to meet workload requirements of existing projects and believes that any further position redeployments from BIS will hamper the Department's ability to carry out its other information system needs.

This request is due to an unforeseen emergency. As noted above, the Department contracted with an initial vendor in January 1997 and expected that vendor to complete the development of the system. Therefore, the situation that the Department would have to terminate its contract was unforeseen at the time the 1997-99 biennial budget passed. Creation of these positions is an emergency because the Department needs to conclude a contract with another vendor as quickly as possible since the development of an automated information system is a critical component of the successful administration of the Milwaukee CPS program. Creation of these positions cannot be deferred to June or later because as described above, these positions are needed in the steps that will take place between now and July, related to vendor evaluation, selection, business requirement definitions, and other preparatory steps prior to hiring the new vendor.

Please contact me if you have questions about this request.

Sincerely,

Joe Leean

Joe Leean
Secretary

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY

Mailing Address:
Post Office Box 7864
Madison, WI 53707-7864

April 24, 1998

late

APR 27 1998

The Honorable Timothy Weeden, Co-Chair
Joint Committee on Finance
State Capitol, Room 203 East
Madison, WI 53702

The Honorable John Gard, Co-Chair
Joint Committee on Finance
State Capitol, Room 316 North
Madison, WI 53702

Dear Senator Weeden and Representative Gard:

The Department of Administration requests the approval of the Joint Committee on Finance, under s. 20.907(1), Wis. Stats., to accept a grant of $16,750,000 PR from the Wisconsin Public Service Corporation (WPSC). The grant is offered for the purpose of piloting an approach for the delivery of utility energy efficiency programs in Wisconsin that begins the transition from public utility delivered energy efficiency programs to programs funded and delivered in alternate ways.

The pilot to be operated will help determine the viability of state delivery, and create an opportunity to test and evaluate methods for delivering such a program. The Department also requests, pursuant to s. 13.101(2), Wis. Stats., position authority for 6.0 FTE 2-year project positions to be funded solely with the granted funds, to administer these programs. This request is submitted pursuant to s. 20.907, Wis. Stats., which specifies that grants, such as the one proposed by WPSC, become "legal and valid" when approved by the Joint Committee on Finance.

<u>Background</u>: This proposed grant arises out of the Commission's Order in the most recent WPSC rate case in which the Commission ordered the WPSC to develop a plan for the transition to complete competitive acquisition of ratepayer-funded Demand Side Management (DSM) services by the end of 1998. In a subsequent memo, dated November 4, 1997, Commission staff informed the Commission that WPSC's DSM transition plan for 1998 was inadequate.

Later, in its *Enunciation of Policy and Principles*, dated December 27, 1997, the Commission outlined its policy concerning the preservation and enhancement of several public benefits, including energy efficiency programs. In referring to the "basic fiduciary and oversight authority" for the energy-related portion of public benefits, the Commission stated that "the energy effort should be attached to a state agency other than the Commission."

In February 1998, WPSC filed a revised Conservation Transition Plan with the Commission. This revision proposed that, if the Commission recommended another state agency assume responsibility for oversight of energy efficiency programs, WPSC would enter into a contract with the Department of Administration (DOA) to fulfill this responsibility, on a pilot basis, in the territory of the WPSC. In exchange for Commission approval of this shift of responsibility, WPSC would fund the pilot with $16,750,000 that the Commission would otherwise have mandated the firm to spend on similar programs.

The Public Service Commission (PSC), the WPSC, and the DOA view this as an opportunity to develop and test processes and programs that will assure the continued availability of energy efficiency services, renewable energy support programs and energy-related Research & Development (R&D) to the residents of Wisconsin as the utility industry transitions to a competitive marketplace.

DOA proposes to enter into a contract with WPSC, contingent upon approval of this request, to receive the funding and use it for a broad and unspecified range of energy efficiency, renewable energy and R&D purposes. Simultaneously, DOA will enter into a Memorandum of Understanding with the PSC in which each agency agrees to work cooperatively on this pilot and conduct an independent third-party evaluation. Subsequent to these two documents, the PSC would issue an order to the WPSC authorizing this grant in lieu of the firm's own efforts.

DOA has begun preliminary planning for this pilot project based on existing programs operated by the Wisconsin Energy Bureau and numerous private sector contractors with which the Bureau has historically worked.

Requested Action: Because time is of the essence, the DOA requests favorable action by the Joint Committee on Finance during its next s. 13.10 meeting. While the upcoming meeting is the first since WPSC made its proposal, the proposal contemplates expenditures for the 2-year period beginning January 1, 1998, with arrearages to be made up after the initiation of the contract. Failure to resolve this request will delay implementation of the pilot program and jeopardize its timely completion.

Nathaniel E. Robinson, Administrator for the Division of Energy and Intergovernmental Relations, is available to provide additional information and to answer questions.

Sincerely,

Mark D. Bugher
Secretary

cc: Nathaniel E. Robinson, Administrator
Division of Energy and Intergovernmental Relations

WISCONSIN DEPT. OF NATURAL RESOURCES

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Tommy G. Thompson, Governor
George E. Meyer, Secretary

April 24, 1998

Honorable John Gard, Co-Chair
Joint Committee on Finance
Room 315 North
State Capitol

Honorable Tim Weeden, Co-Chair
Joint Committee on Finance
203 E. Main
State Capitol

Attn: Committee Secretary, Daniel Caucutt
Division of Executive Budget and Finance, 10th Floor
Administration Building
101 E. Wilson Street

APR 28 1998

John Tim

Dear Representative Gard and Senator Weeden:

Request

The Wisconsin State Park System is facing serious staffing shortfalls that threaten their ability to provide customer service and maintain public safety for the 12 million visitors the system hosts each year. The Department of Natural Resources requests approval to increase the expenditure authority in appropriation 20.370 (1) (mu) for Parks and Recreation operations by $262,500 in FY 98 and by $750,000 in FY99, and for Southern Forests operations by $87,500 in FY 98 and $250,000 in FY 99. This funding is needed to increase base LTE funding for State Parks and Southern Forests. Increases in LTE wages are necessary for many position classifications to recruit and retain qualified Park and Southern Forests staff to provide adequate customer service and public safety for park and forest visitors. The funding will be split between the Parks SEG account (75%) for Parks properties and the Forestry SEG account (25%) for Southern Forest properties. The Parks and Recreation program depends heavily on LTE employees to provide needed services do to the seasonal nature of the work. Increased visitation, while generating additional revenue, has placed an additional strain on the staff resources. Both the Parks Account and the Forestry Account in the Conservation Fund have adequate balances to fund this request.

Background

The unusually tight labor market and the recent increase in the minimum wage rate have combined to increase the hourly wage rate necessary to hire and retain qualified employees as LTEs at Wisconsin's State Parks and Southern Forests. During the summer of 1997, 48 LTE positions went unfilled and another 132 positions were filled but then vacated by the incumbents during the season. Low pay was the number one reason those who quit the program cited for leaving. A number of properties are reporting that recruitment for summer jobs in 1998 are going unanswered. These vacancies and turnover rates are compromising the level of customer service that can be provided on the properties. In addition, inadequate staffing to address visitor conflicts and control illegal activities puts public safety at risk.

Increased minimum wage rates and increased wages paid by competitors have outstripped any growth in the Parks and Southern Forest LTE funding to hire and retain new LTE's. As a result, properties have reduced the total number of employees hired and the hours that each property is staffed. Unfilled LTE positions at these properties has a disproportionate impact on park services and places even greater burdens on the permanent staff.

The current annual LTE budget for Parks and Southern Forests is $2,368,050 ($1,815,700 PR and $552,350 SF). In the summer of 1997, a total number of 674 LTEs worked 305,248 hours, or approximately 145 FTE's worth of effort. The average LTE hourly wage in 1997 was $6.25 per hour. However, the median wage was $6.00 per hour, meaning that 50% of LTE staff made $6.00 or less per hour. The federal minimum wage is now $5.15 per hour. Average LTE Ranger wages in 1997 were typically $4.00 per hour lower than rates paid by competitors including National Park/Forest Service, local parks and county sheriff departments. This request provides funding to increase the average wage by approximately $2/hour, and provide funding to increase total hours by 10% for Southern Forests, and 14% for Parks.

Increasing the average wage rate by $2/hour will cost $137,100 for Southern Forests and $473,400 for Parks. From the amount of funding requested for FY 99, that would leave $112,900 for Southern Forests and $276,600 for Parks for additional LTE hours statewide to help provide services to the increasing number of visitors. This would provide for an estimated 47,212 additional LTE hours statewide, or an additional 22 FTE worth of effort to meet the growing demands of visitors to Wisconsin's State Parks and Southern Forests. The Parks and Recreation program manages more than 70 operational properties, approximately 30 of which can be described as major tourism destinations. The additional LTE hours requested would provide less than one-third FTE per operational property, or less than 1.0 FTE per major property.

In order to pay higher wage rates to attract qualified personnel, the Parks and Recreation program has had to reduce the number of hours worked by LTEs. Park Office hours have been reduced, meaning that visitors often have nowhere to seek assistance in an emergency. Reduced office hours and property staffing also leads to uncollected revenue, and reduced maintenance at Park facilities. Conflicts between visitors is not uncommon, and there is a reduced enforcement presence to intervene to protect visitor safety.

Conclusion

Increased visitor rates to Wisconsin's State Parks and Southern Forests have generated additional revenue to fund this request. Increased visitor rates and the higher wage rates required to attract and retain qualified employees have combined to place inordinate demands on existing staff to provide the services necessary to adequately operate properties and provide for visitor health and safety. Sue Black, State Parks Director, will be representing the Department at this hearing.

Sincerely,

George

Thank you for your attention to this critical item.

George E. Meyer,
Secretary

c: Darrell Buzzell - AD/5
Joe Polasek - MB/5
Herb Zimmerman - FN/1
Steve Miller - AD/5
Sue Black - PR/1

State of Wisconsin • DEPARTMENT OF REVENUE

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Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

April 24, 1998

The Honorable Timothy Weeden, Co-Chair
The Honorable John Gard, Co-Chair
Members, Joint Committee on Finance
115 South Capitol
Madison, WI 53702

Dear Senator Weeden and Representative Gard:

Summary of Request

The Department of Revenue requests a supplement of $1,460,600 GPR from s. 20.865(4)(a) to begin the development of an Integrated Tax System for the State of Wisconsin. The supplement is to be allocated in the following manner: In 1997-98, $45,000 GPR to s. 20.566(1)(a); in 1998-99, $1,415,600 to s. 20.566(1)(a). Funding for FY 1998-99 should be placed in the base funding level for the respective appropriations to provide on-going funding for the project.

The Budget Adjustment Bill proposes creating an appropriation under s. 20.566(3)(b) to fund the Integrated Tax System. If the appropriation under s. 20.566(3)(b) is approved in the Budget Adjustment Bill, we request funding for 1998-99 be placed in s. 20.566(3)(b) instead of s. 20.566(1)(a).

Background of Request

1997 Wisconsin Act 27 placed $1,460,600 GPR into the Joint Committee on Finance's reserve under s. 20.865(4)(a) for the Department of Revenue (DOR) to begin developing an Integrated Tax System. The funding was allocated between fiscal years in the following manner: $1,257,100 GPR in 1997-98 and $203,500 GPR in 1998-99. The Department is to submit an implementation plan to the Committee for its approval before the funding can be released.

The Department of Revenue intends to completely overhaul its tax processes and computer systems. The goal is to increase revenue to the state, establish operating efficiencies and enhance customer satisfaction with Department services. Reengineered processes will be supported with up-to-date technology to produce a fully integrated system that will meet Department and customer needs. The antiquated system of over 30 separate computer systems will be replaced with a single, integrated system.

Department employes will work in partnership with leading technology companies to design, create and implement the new system. The partnership arrangement will provide access to needed technical resources while assuring that Department staff can maintain the system when it is completed.

In December of 1997, the Department issued a Request for Proposal (RFP) to select vendors for the Integrated Tax System project. Vendor proposals have been received and are being evaluated. A contract should be awarded by May 1, 1998. The entire project is anticipated to take five years and be completed by June 30, 2003. Provided below is a breakdown of the five year period:

- PHASE ONE (1997-99)
  - Select Vendor (RFP) 1/1/98 to 4/30/98
  - Develop Master Plan 5/1/98 to 9/30/98
  - Internet Pilot 7/1/98 to 6/30/99
  - Change Mgmt/Reengineering 9/1/98 to 6/30/99
- PHASES TWO AND THREE (1999-01)
- PHASES FOUR AND FIVE (2001-03)

The funding requested will pay for developing a master plan, conducting a pilot project and beginning the detailed process redesign. The Department may use the master lease program as appropriate and needed to meet project requirements. The following is a breakdown of the funding being requested:

	1997-98	**1998-99**
Salary & Fringe		$109,000
Supplies & Services		
Contractual Services (CSE)	$45,000	$1,152,000
Mailing, Postage & Freight (MPF)		2,000
Minor Equipment & Software (MES)		14,000
Non-State Telephone (NST)		2,000
Other Admin & Operating (OAO)		2,000
Supplies (SPL)		1,100
Training (TIS)		8,500
	$45,000	$1,181,600
Permanent Property (FXE)		$125,000
Total	**$45,000**	**$1,415,600**

The Department of Revenue requests that FY 1998-99 be considered on-going funding to support subsequent phases of the project and be placed in the GPR base level of funding for the agency. Additional funding, if necessary, will be requested through the biennial budget process. Greater detail on the individual amounts requested can be found in Attachment 1.

Attached to this request are documents that provide greater detail on the Integrated Tax System project and the request being presented. The attachments are:

- **Attachment 1: Funding Use Explanation**
- **Attachment 2: Integrated Tax System Project Plan**

How Request Meets Statutory Criteria

Section 13.101(3), Stats., provides that the Joint Committee on Finance may supplement, from the appropriation under s. 20.865 (4), the appropriation(s) of a department for the purposes for which a supplemental appropriation has been authorized by the legislature. 1997 Wisconsin Act 27 placed supplemental funding in s. 20.865 (4)(a) to support the development of an Integrated Tax System by the Department of Revenue for the State of Wisconsin. The Department of Revenue is requesting the release and allocation of the supplement to the appropriation under s. 20.566(1)(a). The funding is needed to start the first phase of system development and provide continuing support funding for future pilots/phases of system development.

We thank you for your consideration of this request.

Sincerely,

Cate Zeuske

Cate S. Zeuske
Secretary of Revenue

ATTACHMENT 1

DEPARTMENT OF REVENUE
INTEGRATED TAX SYSTEM

FUNDING USE EXPLANATION

I. Salary & Fringe

A. Position Funding:

A Management Information Manager is required to perform technical project management of the Department's Integrated Tax System project. The individual in the position will provide technical direction, management and coordination for the project. The individual will be responsible for leading technical functions in requirements definition, application development, IT system design, technology selection, quality assurance, system testing, application development, technical support, enhancements, and system maintenance. The individual in the position will also be a key participant in process reform/reengineering and change management activities. While a position is available for this key project team member, funds are not available to cover the salary and fringe benefits costs. This is due to the position being held vacant to meet the 3% budget turnover reduction in the appropriation in which this position resides.

	1997-98	1998-99
Permanent Salaries		$80,000
Fringe Benefits (36.25%)		29,000
Total		**$109,000**

II. Supplies & Services

A. Contractual Services (CSE):

There are at least three separate initiatives that will be supported by these funds. These are : Project Master Plan Development ($750,000), On-line Internet Filing Pilot ($350,000), and Process Reengineering ($97,000). These are estimates that will be finalized when contract negotiations are completed. This is allocated as follows:

	1997-98	1998-99
Master Plan Development	$45,000	$705,000
Internet Filing Pilot		350,000
Process Reengineering		97,000
Total	**$45,000**	**$1,152,000**

B. Other Supplies and Services lines are estimated using DOR's standardized costs:

	1997-98	1998-99
Mailing, Postage & Freight (MPF)		$2,000
Non-State Telephone (NST)		2,000
Other Admin & Operating (OAO)		2,000
Supplies (SPL)		1,100
Total		**$7,100**

C. Training Funding (TIS):

	1997-98	1998-99
Standard Training (4@$400)		$1,600
Project Management Training (3@$300)		900
MS Project Software Training (4@$200)		800
Internet Training (4@$300)		1,200
FTA Workshops (8@$500)		4,000
Total		**$8,500**

D. Minor Equipment & Software (MES):

	1997-98	1998-99
Office Equipment (4 workstations)		$5,600
Laptop Computer		4,900
Software		3,500
Total		**$14,000**

III. Permanent Property (FXE):

For the On-line Internet Filing pilot, larger, more robust network servers will need to be purchased for approximately $125,000. The mission critical nature of this application requires the use of redundant servers to ensure expedient and consistent customer service.

	1997-98	1998-99
Permanent Property		**$125,000**

Attachment 2

Integrated Tax System Project Plan

Department of Revenue
March 1998

Introduction and Background

The Department of Revenue (DOR) is beginning a five-year project to integrate its systems and processes. Working with the Departments of Administration (DOA) and Workforce Development (DWD), DOR has issued a Request for Proposal (RFP) to select vendors to partner with the department to develop this integrated system. The next year (FY99), designated as Phase 1 within the overall project plan, will be spent developing a detailed master plan for the total project, beginning the reengineering of tax processes, and developing and implementing an on-line pilot Internet tax filing application. This first phase will be managed as a separate project under the "umbrella" of tax integration. The remaining four years will also be segregated into separate phases to simplify the management of a very large, complex project. These phases will be specifically defined in the detailed master plan.

Tax information is currently stored in 30 separate tax specific "silo" systems. The integrated tax system will merge all information into one, efficient system organized by function. Tax integration is a framework of people, processes and technology functionally organized to administer taxes. This system will work in tandem with technology to offer around-the-clock customer service and Internet filing. **Attachment A** includes an Action Plan that provides background on tax integration.

Electronic commerce is fast becoming common for businesses of all sizes. With an integrated tax system, businesses and individuals will be able to file income, sales and other taxes over the Internet. Paper, for these filers, is eliminated. Refunds will be issued faster and math errors are virtually eliminated.

Individual taxpayers will be provided one-stop shopping. Instead of calling multiple numbers for help with questions, a state-of-the-art call center will ensure rapid customer service. Tax filing is cumbersome for businesses and use of information technology can make this easier. Taxpayers will see their refunds in a matter of days, not months.

More revenue will be generated without raising taxes. Voluntary compliance and delinquent tax collection efforts will improve. Identifying tax evaders will be easier. Revenue collections for Wisconsin should improve significantly. Other states suggest that their revenues increased by as much as 2 percent. Increasing revenues by just ½ percent would raise $45 million annually.

The integrated tax system will enable the department to provide outstanding customer service at the lowest possible cost. Improved processes supported with modern technology will help the department control costs and do more with existing resources.

This narrative along with accompanying attachments is the plan for Phase 1 of DOR's tax integration initiative. In addition to providing the project details, this plan provides background information about DOR including what processes are in place to maximize the quality of project deliverables while delivering systems on time and on budget. Before delving into and understanding the specific details about Phase 1, information about the total tax integration project is provided.

Implementation Strategy

DOR will manage the entire project by breaking deliverables into one year phases. This plan is for Phase 1 of the project. Four phases will remain after implementation of Phase 1. Managing this requires that Phase 1 begin with the creation of a detailed master plan. This master plan will provide project control throughout the entire integration initiative.

Project control has also led the agency to a vendor partnership approach. Working in partnership with vendors while maintaining project management responsibility within DOR will deliver a superior product while providing close monitoring of vendor performance. Employes working in concert with vendors will insure agency ownership and control of the final product.

Master Plan

A detailed master plan will be completed by September 30, 1998. This plan will be included in DOR's next biennial budget submission. This deliverable will be a "road map" to the phases, deliverables, resource requirements and timelines for the entire project.

There are ten separate components within DOR's vision of an Integrated Tax System. Some of these components will take more time to develop than others. The plan will provide time and resource estimates for each component.

Two components presently exist at DOR and an assessment of the value of these assets will be conducted during plan development. If it is determined that these existing components can be modified to work within the new system, the time and resources required to do this will be detailed in the plan.

A realistic estimate of project costs will be included in the plan. Teams will be working on multiple components simultaneously. The master plan will chart out exactly what must happen in what order before moving on to dependent parts. Included in the plan will be an allotment of time to develop an enterprise-wide data model that will provide the foundation for the relational databases that the components will require.

Process Reengineering

DOR must make sure that all processes are well conceived before building the information systems to support them. The systems that presently support tax administration define to a large extent how DOR performs the work. Reengineering will enable the agency to make the processes more efficient and effective. The reengineering will be done to take advantage of new technology.

Reengineering the agency must be planned and executed carefully to avoid disruptions. Replacement of the silos of legacy systems which are tax specific with integrated functional processes will change the way employes work and the flow of data through the agency. Using relational database technology to store information will open up new approaches to audit and collection. For example, information sharing with DWD on employers could simplify taxpayer reporting for wages and withholding tax. The number of impacted processes and employes mandates this carefully developed approach to change.

The reengineering process will occur after the master plan but before implementation of the new system components. This process will examine and analyze what other types of change are required above and beyond computer development efforts and create a plan for implementing and managing these changes.

Pilot Project

A pilot project including on-line Internet tax filing is planned for development and implementation during Phase 1. Once successful, on-line filing will be expanded to other tax types. DOR will finalize plans for this pilot in the master plan.

The pilot is important, as it will provide knowledge and experience with electronic commerce on the Internet for DOR. This experience will provide "proof of concept", reducing the risk of expanding electronic commerce to other tax types. Issues addressed during this pilot will be beneficial when other tax types are implemented. Issues to be addressed include security, confidentiality, signatures and managing attachments and exceptions processing.

Phased implementation

DOR plans to use phased implementation to attain the total project's goals and deliverables. Phased implementation is the strategy of breaking a large project into manageable parts that can be put into place and produce benefits.

There are advantages to a phased implementation compared to more conventional approaches. These include: 1) producing benefits earlier, 2) greater control of contractors, 3) isolating risks, and 4) better project management.

This approach provides a strong focus on the task at hand (the phase being implemented) within the context of a long range master plan and vision. While maintaining the overall goals of the project by following the detailed master plan, products can be implemented throughout the project rather than all at once at the end. This approach identifies problems early and provides time to adjust without extending the timeline of the project.

Vendor partner

Developing the Integrated Tax System in partnership with an external vendor provides good value. Internal development staff cannot support existing applications and effectively develop an integrated system simultaneously. Supporting 30 separate systems consumes most of the hours available from existing staff. Permanent development staff skills are focused on the systems they work with. These are primarily mainframe COBOL-based programs.

Partnering and joint development with an external vendor provides two major benefits. The first benefit is that joint development will enable new technology knowledge transfer from the vendor to DOR staff. The second benefit occurs after project completion when DOR, rather than the vendor, assumes on-going maintenance support for the integrated system. With a partnership approach, DOR staff is directly involved, working alongside vendor staff, in developing the components of the integrated system. This will also enable staff to build upon applications developed during this project without having to compensate a vendor for subsequent development. The partnership should also result in DOR building the system that the agency needs rather than what the vendor has to provide.

Vendor Selection and Contracting

An RFP was issued by DOR to create a purchasing bulletin in three categories from which integrated tax vendors can be selected. These categories are project planning/system integration, functional component development and prime vendor. Vendor responses have been scored and the top five rated vendors per category are eligible for consideration. DWD may also use this bulletin.

Vendor Selection

The next step in the vendor selection process will be to solicit final offers to determine which vendor DOR will contract with to develop the project master plan. Three to five vendors will be invited to present specific proposals to DOR staff. Based on established criteria, DOR will select the vendor who best meets the requirements for Phase 1 and who is capable of working with the agency through the entire project.

The structure for the RFP should enable DOR to select the best vendor for each function and/or component. Vendor selection is a rigorous process as the success of tax integration depends in large part on the vendor/partner(s) that DOR chooses. The identified components of the integrated tax system include: Registration (name & address information), Tax Return Processing, Refund Processing, Case Management, Customer Service, Delinquent Tax Collections, Taxpayer Accounting, Financial Accounting, Joint Agency Registration and Decision Support/ Audit Selection. Using multiple vendors will enable DOR to select the strongest vendor(s).

The vendor selected to perform the system integration function will have lead responsibility for assuring that all components of the system work together. This systems integration function will be built into the master plan and project timeline.

Contracting

The department intends to sign contracts for individual components of the project. For example, the first contract will be for developing the master plan.

The component approach increases vendor performance because they are held to delivering specific products within a short timeframe. Also, future contracts are predicated on successful completion of the current contract. Separate contracts to develop the components within the integrated system will be negotiated with a vendor(s) from the bulletin. The approach is flexible and does not require additional RFPs.

DOR intends to take innovative approaches to contract negotiation. The agency will base payments on specific deliverables. Performance contracting where payments are tied to system performance and results will be investigated. Benefits contracting where vendors are paid from increased revenues or cost savings will be considered. DOR will not use a standard, multi-year, large dollar contract approach that historically has not worked well in other large projects.

Project Management

Success of the integrated tax project depends on rigorous project management. The department recognizes the importance of project management and is working to improve the project management skills of its staff for this and all department projects.

Project manager and project team

A DOR project manager has been appointed and will be held accountable for the progress of the project in its entirety. In addition to the project manager's immediate supervisor, an Executive Steering Committee will closely monitor the progress of the project. The agency is selecting an information technology project manager who will report to the project manager. The IT project manager will be responsible for the technical components of the project. Reallocation of an analyst and a support position will complete the core project management team. Other employes and teams will be created throughout the project as necessary. Agency employes will be involved as much as possible to improve the final product and to increase employe support for the initiative.

Project management methodology

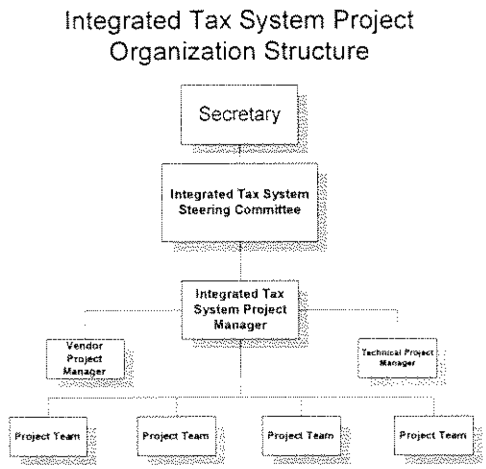
The tax integration project throughout the five phases will be managed following the methodology detailed in DOR's " Project Management Policies, Guidelines and Procedures." The methodology mandates that all projects have a project charter. This methodology includes definitions of roles and responsibilities, templates for project organization and documentation, and managing project inputs to control the outcomes and deliverables. Despite the importance of planning, the methodology acknowledges that nothing is actually produced during the planning stages. The methodology focuses on project control during the implementation phase. **Attachment B** is the charter for phase 1 and **Attachment C** is the overall project charter.

DOR's formal methodology requires frequent oversight meetings. The Secretary's Office will be closely involved with project oversight. Documentation is required to allow for management control of the project. A work breakdown structure (WBS) is required. **Attachment D** provides a detailed WBS with a project timeline for Phase 1. **Attachment E** provides a WBS for the total project which will used as a basis for master plan development. These documents will be updated frequently during the project.

Teams of employes are presently developing a standard approach to systems development methodology, improving the information technology infrastructure, and setting standards for application development tool sets. These initiatives and several others are efforts to prepare employes and the agency for tax integration. Additional efforts will be directed towards educating employes on reengineering principles, managing and/or dealing with change and leadership. These efforts will occur during the next six months prior to beginning the process reengineering activities and before any changes resulting from integration are implemented.

Project structure

Following is the management structure for the project:



Training

The agency recognized that project management training is necessary. Training on the methodology and project management skills is being provided to employes who will work on the integration project. DOR has sent more than 60 people to project management training.

DOR has a standard compliment of training available for its employes. Additional offerings are being added to expand employees skills and to prepare them for the future. A management training program is being designed to improve supervisors' skills in managing change.

Customers and users

Communications with customers and users on all phases of the system is also critical to the success of this project. Failure to communicate is a common error. The department will systematically involve customers and users in all phases of the project.

A Business Advisory Council has been formed by the Secretary's Office. The council meets quarterly with DOR staff. Input and advice will be solicited from this group and others. Individual taxpayer input will be sought also.

Internal communication efforts are also occurring to open up communications with DOR employes. Presently the efforts have been informative. During the actual project development, employes will be involved on teams to bring their specific knowledge and expertise into this system.

Timetable, Major Milestones and Deliverables

The tax integration project will be implemented in five one-year phases. Detailed timelines for the entire project and each phase of the project will be developed. The timelines will include deliverables (project outputs), task timelines and milestones. The detailed timelines will be completed during the master plan development.

The department has developed a preliminary timeline for the project. Attachment D identifies milestones for Phase 1 and Attachment E includes milestones for the entire project.

Phase One (1997-99)

Master Plan (September 30, 1998). The detailed master plan will provide a road map for the phased development and implementation of the functional components: registration (name and address database), tax return processing, refunds, case management, customer service, collection of delinquent accounts, taxpayer accounting, financial accounting, and decision support/audit selection. The master plan will include cost estimates for the project.

Pilot Project (June 30, 1999). The department will implement a pilot project in Phase 1. The purpose is to quickly demonstrate the benefits for the Integrated Tax System and to test new technology. The on-line Internet sales tax filing is the anticipated pilot project. It is intended to improve customer service and provide proof of concept for using Internet technology as a communications tool and tax filing method. A DOA sponsored digital signature team that includes DOR staff is addressing security issues associated with on-line filing. The team will pilot digital signatures in conjunction with DOR's on-line filing application.

Process Reengineering (June 30, 1999). Reengineering existing processes must occur after master plan development to reconcile workflow and procedures with the planned development of the components. This task will provide the framework and time to consider how DOR will administer taxes using an integrated system.

Biennial Budget Request (January 1999). After master plan development, DOR will submit a budget request for the project. The request will be documented with the master plan, cost/benefits analysis, and funding strategies. Included in the budget request will be details about Phase 1 deliverables and DOR progress.

Phases Two and Three (1999-01). The master plan will identify the tax system components (e.g. registration, case management) that will be developed and delivered during the 1999-01 biennium. The highest priority components will be developed and implemented in phases two and three.

Phases Four and Five (2001-03). The final two phases will complete the component development and implementation. Vendor involvement will be completed at the end of phase five and the department will assume ongoing maintenance.

Risk Management

A project of this scope and size involves risk. The department recognizes this and is taking steps to minimize the risk. These are: 1) use of a formal project management methodology, 2) phased implementation to get benefits quickly and contain risks, 3) use of rigorous contract management with performance requirements, 4) partnering with leading technology companies, and 5) involvement of customers and users in all phases of the project. Work is underway on all of these risk management strategies.

The department has reviewed the project implementation strategies of other projects in Wisconsin and other states. The department has incorporated those experiences into how the system will be designed and how it will be managed. Learning from the experience of others will increase the likelihood of success. The RFP clearly reflects the new strategy the department is using.

DOR believes that continuing with current processes and systems presents the greatest risk. A well-managed integrated tax system project will eliminate the reliance on outdated computer systems.

Budget

Attachment F provides the report from the Legislative Fiscal Bureau when the initial appropriation was approved during the last biennial budget.

Phase One

The 1997-99 budget provides $1.46 million to begin the project. The department anticipates spending this funding in the following manner:

	1997-98	1998-99
Salary & Fringe		$109,000
Supplies & Services		
Contractual Services (CSE)	$45,000	$1,152,000
Mailing, Postage & Freight (MPF)		2,000
Minor Equipment & Software (MES)	14,000	
Non-State Telephone (NST)	2,000	
Other Admin & Operating (OAO)		2,000
Supplies (SPL)		1,100
Training (TIS)		8,500
	$45,000	$1,181,600
Permanent Property (FXE)		$125,000
Total	**$45,000**	**$1,415,600**

Phase Two through Four

Additional funds will be requested in the next budget. Based on other states' experience, total cost could range between $10 million and $50 million. The amounts will be determined in the master planning process.

Master lease options

Any funds appropriated into DOR's base may be leveraged using the Department of Administration's master lease option. The use of the lease option will depend on the project plan and the resource and cost schedule for implementation. The master lease program allows for better matching of costs, benefits and budget authority.

Funding options

The department expects that increased revenues will easily pay for the system. If the department can increase collections by ½ percent, it would raise $45 million annually.

DOR will also explore innovative financing options with vendors. Additional funding options include tying contract payments to specific deliverables, performance contracting, valuing existing state computer system assets, benefits contracting and charging royalties from using the Wisconsin system in other states.