



State of Wisconsin \ LEGISLATIVE AUDIT BUREAU

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DATE: April 19, 1999

TO: Senator Gary R. George and
Representative Carol Kelso, Co-chairpersons
Joint Legislative Audit Committee

FROM: Janice Mueller *Janice Mueller*
State Auditor

SUBJECT: Proposed Audit of the ~~University of Wisconsin-Madison Athletic Department~~
Background Information

At your request, we have gathered some background information the Joint Legislative Audit Committee may find useful in considering a request from Representative Schneider for an audit of the University of Wisconsin-Madison Division of Intercollegiate Athletics (the Athletic Department). The Athletic Department's fiscal year (FY) 1998-99 budget is \$33.8 million.

Concerns have been raised because the Athletic Department anticipates deficits of \$1.1 million in FY 1998-99 and \$600,000 in FY 1999-2000. These deficits will be funded from cash reserves, leaving a projected balance of \$2.2 million on June 30, 2000.

Although the Athletic Department believes its revenue estimates have generally been reasonable, some revenue projections appear to have been overly optimistic. For example, the requestor noted that in FY 1998-99:

- Camp Randall special events revenue, which is generated from concert and pre-season Packer games, is expected to be \$1.3 million less than anticipated;
- fundraising efforts for the Goodman softball field have generated \$550,000 less than anticipated; and
- Kohl Center special events revenue, which is generated from concerts, catering, and parking fees, is expected to be \$900,000 less than anticipated.

In addition, the Athletic Department's expenditures are increasing. Operating expenditures are expected to increase by \$14.6 million between FY 1996-97 and FY 1999-2000. The most significant rates of increase are expected in facilities, primarily as a result of operating the Kohl Center, and in debt service payments related to construction of the Kohl Center.

An audit of the Athletic Department could analyze:

- trends in revenues and expenditures;
- reasons for changes in operating costs over the past several years; and
- the adequacy of oversight of the Athletic Department's financial operations.

If you have any additional questions regarding this request, please contact me.

JM/PS/ce

cc: Senator Judith Robson
Senator Brian Burke
Senator Peggy Rosenzweig
Senator Mary Lazich

Representative Steve Nass
Representative John Gard
Representative Robert Ziegelbauer
Representative David Cullen

Representative Marlin D. Schneider

David Ward, Chancellor
University of Wisconsin-Madison

MARLIN D. SCHNEIDER
State Representative

72nd Assembly District

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WISCONSIN STATE ASSEMBLY
ASSISTANT MINORITY LEADER

March 2, 1999

Member:

Committee on Assembly Organization
Committee on Education
Educational Communications Board
Committee on Government Operations
Joint Committee on Information Policy
Council on Information Technology
Joint Legislative Council
Joint Committee on Legislative Organization
Joint Survey Committee on Retirement Systems
Committee on Rules
Committee on Rural Affairs
State Capitol and Executive Residence Board
Joint Survey Committee on Tax Exemptions
Committee on Veterans and Military Affairs
National Conference of State Legislatures
Council of State Governments

Senator Gary R. George and
Representative Carol Kelso, Co-chairpersons
Joint Legislative Audit Committee
State Capitol

Dear Senator George and Representative Kelso:

I am writing to request that the Legislative Audit Bureau be directed to conduct an audit of the University of Wisconsin-Madison Athletic Department. Despite substantial increases in revenues from its money-making athletic programs and outside donations, and a recent substantial increase in the price of football tickets, the Athletic Board still expects a \$1.7 million operating deficit in fiscal year 1998-99 and a \$600,000 operating deficit in fiscal year 1999-2000. A comprehensive audit by the Legislative Audit Bureau is needed to determine how these financial problems have developed.

An examination of the trend in revenues and expenditures, a detailed review of the Department's operating costs, and an assessment of the management oversight provided by Athletic Department and other university officials is, in my opinion, long overdue. I believe that a comprehensive audit conducted at this time could provide the information needed to ensure that appropriate steps are taken to avoid a fiscal crisis such as the one that occurred in the late 1980s.

Thank you in advance for your prompt consideration of this request.

Sincerely,

Marlin Schneider
Assembly Minority Leader

MDS:smm

"Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion." – Edmund Burke Nov. 3, 1774

MARLIN D. SCHNEIDER
State Representative

72nd Assembly District

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March 9, 1999

Representative Marlin Schneider
State Capitol Bldg. PO Box 8953
Madison, WI 53709-8953

Re: UW Athletic Department Projected Budget Deficit and your proposed Audit

Dear Representative Schneider:

Three great "On Wisconsin" cheers for your courage and insightful thought in requesting an audit of the Athletic Department expenditures. I believe such an action would be very fruitful. Specifically it would flush out some facts that would surprise and shock Badger fans.

Relative to this I would suggest that there are some serious problems in the way the Athletic Department is allocating its funds namely:

1. There apparently was a consultant who underestimated the revenue from the Kohl Center by \$900,000. How could this happen and I hope the Athletic Department did not pay this individual for such poor work. Moreover the UW has been in the "entertainment" business for decades why do they need an outside consultant to estimate revenue and how could they accept such estimates. In private business, you would be fired for such a gross error.
2. Why did the Department begin construction of a softball complex without the necessary funds? My understanding was the Goodman family was kind enough to fund this complex. Now where did this projected \$500,000 cost overrun originate and why was this not taken into account before beginning construction. This reminds me of Bud Selig and his stadium. Furthermore, if it is not fully funded then stop construction until you have the money to pay for the project.
3. The Athletic Department pushed for artificial turf and now it appears that it is over budget. Moreover, the arguments to reinstall this suspect injury-producing surface were due to potential revenue from other events. The fact is this revenue could be obtained with a natural grass surface. None of the high school events raises any money for the Athletic Department. In addition to this, the surface will have to be replaced in another eight years at a cost of several million, which will be significantly above the cost of maintenance of natural grass, which would not have to be replaced.
4. If the Athletic Department is looking for additional revenue, they can start by billing the University Officials, Regents and the State Officials for the \$200,000 of

their Rose Bowl Expenses. Why should they get a free ride if the Department is in need of money? I am sure the Regents and members of the "Official Rose Bowl Party" would have never attended the event or been willing to pay their own way if they knew that their participation was going to cause the Athletic Department to go into debt and additional \$200,000. The Athletic Department should be questioned as to whom was in the party and why the expenses overshoot the Big Ten Allocations of \$1,400,000. The answer in the newspaper was that "We go first class". Well good now pay for it yourself and don't come looking for the average fan to bail you out by increasing ticket prices and placing a PSL (personal seat license)/scholarship fund/surcharge of \$300-500/football ticket.

5. What happened to the additional income from the other four Big Ten Schools that participated in Bowl games? Is this calculated into the budget? The Rose Bowl payout alone is \$15,000,000/conference yet the Athletic Department states it received only \$1,400,000 what about the income from the other bowl games?
6. The Athletic Department appears to be screaming "The Sky is Falling" when they have \$3.7 million in the bank. My suggestion is that is the purpose for this fund. If the Department underestimated the Kohl Center revenue and the cost of the baseball complex then use these dollars to offset these costs. Do not turn to the average fan to offset your errors and cover these costs.
7. Relative to the forthcoming ticket price increase this is only the tip of the iceberg. As you may know they are proposing to slap a surcharge/PSL/scholarship fee of \$300-500/football ticket for all those individuals in prime seating areas, which at last report, were seats between the 20 yard lines. It should be noted that the UW already has a preferential seating policy.
8. This Preferential Policy that was put in place in 1982 by the UW allowed for individuals to purchase tickets in "prime" areas **without displacing the current long time purchasers**. Apparently, it is now necessary to revamp this policy to create an additional revenue stream to cover the existing and forthcoming operating budget deficits. The football season ticket holders didn't create these financial problems (\$900,000 shortfall in Kohl Center Revenue, \$500,000 shortfall in the funding of the softball complex, \$200,000 cost overrun in Rose Bowl Travel expenses for the "official" party) but now are being asked to cover the Athletic Department's mismanagement. This despite the \$3.7 million positive reserve fund that would more than cover the projected \$1.7 operating deficit.

As Ted Kellner, a member of the Athletic Board stated at last Friday's meeting, "I am opposed to approving deficit operating budgets", I couldn't agree with him more. The Athletic Department has to start operating like a business. That is to say: a) if you have a cost overrun in Rose Bowl travel expenses then bill the benefiting parties proportionally. I do not believe the Regents, Chancellor, or Governor would have a problem with this approach: b) If you have a cost overrun or shortfall in revenue for the new softball complex than not only put in policy to

have the funding 100% in place prior to beginning construction but suspend /stop the construction until the funding is in place; c) If a consultant underestimates the revenue for the Kohl Center I would hope his contract calls for accurate projections and that his payment would be based on said. If as is the case an error in projections occurred then his payment should be reduced; d) Apparently part of the revenue shortfall is caused by the forthcoming introduction of Women's Hockey and Lightweight Crew. If as Assoc. Athletic Director Moss states that it costs \$500,000/new sport then suspend the introduction of the sports until you have the revenue.

In essence, the long time season ticket holders should not be forced to pay for the Athletic Departments lack of proper fiscal planning. Camp Randall is not a new stadium like the Kohl Center it is just that due to the recent success of the team the Athletic Department views it as a source to rebuild its war chest. My response is "Hey folks you blew the budget, you have the funds to pay for it now belly up to the bar and use your reserve fund for the purpose it was intended, don't come crying to us for your errors."

9. Relative to the Preferential Seating Policy as I stated in the above paragraph this policy has been in place to allow individuals who were not long term season ticket holders to purchase tickets in the prime areas or for individuals to improve their locations. Pat Richter stated that he is not intending to "reshuffle the deck on location as they did with the Kohl Center", well that is encouraging however he did go on to state that the Department was thinking of slapping a "\$300-\$500/seat surcharge/PSL/scholarship fund on all seats between the 20 yard lines.

Now lets see how this works: 1) You are a loyal alumnus who has purchase tickets since the 1950's (as I have); 2) You suffered through some of the worst football on the face on the earth (Don Morton, John Cotta) continued to buy 6 season seats and contribute to the National W Club, Mendota Club &/or UW Foundation; 3) Your support has never wavered and you were among the 18,000 in Camp Randall in the snow and cold for the Michigan State game in 1989; 4) Now that the football team has been able to reach a level of success you want to "force" us out of our seats unless we ante up \$500/seat or, in my case, \$3000/season in addition to the cost of the tickets.

Needless to say I am more than a little bit upset by this planned move in that:

- It shows the Athletic Department doesn't care about the long standing loyal alumni who have bought tickets no matter what the record was of the team;
- If we refuse or opt not to contribute the additional \$500/seat yet still wish to be a season ticket holder there obviously will not be enough space in the non-preferential seating areas as the Department has already a waiting list for season tickets. Therefore, the statement by Pat Richter is not accurate. If we do not pay the fee, we are out- thank you very much!

- This policy can be defined in one term "Greed". "We (the Athletic Department) have a hot commodity, a winning football team and we are going to stick it to you or you are out!"
- The UW has one of the world's greatest History Departments and any student of History will tell you that History runs in cycles and tends to repeat itself. The Athletic Department would be wise to review their football history. It is made up of a very few years of success. If Barry Alvarez leaves for the NFL, Notre Dame, Nebraska and the ghost of Don Morton returns who is going to pay the \$500/ seat premium. The UW is not Michigan, Notre Dame, Ohio State Nebraska, Florida State, etc., which have long and sustained winning football traditions. My hope is that Pat Richter will realize that it would be foolish to abandon his long-term loyal supporters. We will still be in the stands, health and finances permitting, when the fall from the mountain begins again-which it ultimately will (see Oklahoma, LSU, USC, etc.).

For your reference, since the Athletic Department announced their intentions and their budgetary problems many of my fellow alumni & W Club members are extremely upset with this situation. The overall feeling was of shock, dismay and betrayal (in that we believed in Pat Richter's management and that we were past these problems).

We frankly do not feel it will do any good to write the Athletic Department as they have obviously reached their decision and are now only trying to determine the logistics to implement this policy. We therefore turn to you and applaud your courage for the suggested audit. By securing the information, it would hopefully allow you to bring some pressure to bear on the Athletic Department and its administrators who are acting like Jerry Jones of the Dallas Cowboys.

Both my father & I played for the UW and it will hurt a great deal to not be able to attend the games. My grandson is enjoying his afternoons at Camp Randall and hopes to one day follow in his grandfather's footsteps. However, it appears that there will not be room for us if they implement this policy. I am now retired and I do not have the projected \$3000/season plus the cost of the tickets. Furthermore, it is apparent that they will not have room for us in the non-preferential seating.

Anything you can do to bring out some of the facts plus hopefully introducing legislation to prohibit the implementation of PSL/scholarship fees/ticket would be greatly appreciated. I have to believe like Ted Kellner that it is wrong to operate a business at a projected deficit and then expect other sources (season ticket holders) to correct their errors. They are not in debt just guilty of poor planning. I am not opposed to helping the Athletic Department, as I have done for years, but please be reasonable.

March 9, 1999

Sincerely,

A Loyal Badger Alumnus, Season Ticketholder, W Club Member & Retired UW
Employee

(Who wishes to remain anonymous due to potential retribution by the National W
Club and Athletic Department)

Cc: Governor Thompson



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 21, 1999

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: University of Wisconsin-Madison Intercollegiate Athletics: Section 16.515 Request for Expenditure Authority -- Agenda Item V

INTRODUCTION

On February 19, 1999, a s. 16.515 request was submitted to the Joint Committee on Finance from the Department of Administration (DOA), recommending an overall increase in expenditure authority for three appropriations related to the UW-Madison Division of Intercollegiate Athletics (Division). The first item would provide \$5,062,800 PR to the s. 20.285(5)(h) appropriation for UW-Madison Intercollegiate Athletics auxiliaries in 1998-99, which is used to fund the operations of the Division. If approved, total funding would be \$36,049,400 PR in 1998-99, excluding carryover funds. The second recommended item would increase the s. 20.285(5)(i) appropriation by \$67,400 PR for non-income sports, which funds parking expenses and student scholarships. If approved, non-income sports spending authority would be \$395,000 PR in 1998-99. Lastly, DOA's recommendation would decrease the s. 20.285(5)(j) gifts and grants appropriation by \$1,956,000 PR. If approved, the total gifts and grants appropriation would be \$3,958,800 PR in 1998-99.

The Co-Chairs of the Committee, in a letter to the Secretary of DOA on March 11, 1999, indicated that an objection has been raised to this request and that the Committee would schedule a meeting to consider the matter. This item has been included on the agenda for the Committee's s. 13.10 meeting.

BACKGROUND

Expenditure and position authority for the Division's budget is typically provided through the s. 16.515/505 process rather than the biennial budget. While the Division initially approves its budget in the spring of each year, it submits its request for additional expenditure authority to DOA at the end of the football season, when it has information about revenues and expenditures for the fiscal year. At its June, 1991, s. 13.10 meeting the Joint Committee on Finance approved a motion to require that any expenditure increases requested by the Division be submitted to DOA no later than December of the fiscal year for which the request is being made. DOA then reviews the request and forwards its recommendation to the Joint Committee on Finance, which reviews the request under a 14-day passive review.

The Division submitted its 1998-99 budget request to DOA on November 20, 1998. In addition, in July of 1998, the Division submitted a s. 16.505/515 request for additional positions and associated expenditure authority in 1998-99. Staff from the Division indicated that it sought approval for these positions and funding at that time because the annual budget approval process in December would not provide the Division with sufficient time to hire the positions for the 1998-99 academic year. The Joint Committee on Finance approved DOA's recommendations for additional expenditure authority of \$247,400 PR and 15.0 PR positions for the Division in September of 1998.

ANALYSIS

Athletics Division Expenditures

As a part of the UW-Madison Intercollegiate Athletics s. 16.515 request, expenditure authority is requested for the following purposes identified below by each appropriation. These budget increases include a 4.5% pay plan increase for unclassified staff and a 3.5% pay plan increase for classified staff.

Athletics Division Operations. The appropriation for UW-Madison athletics auxiliary enterprises is currently \$30,986,600 PR for 1998-99, excluding carry-over funds from the previous fiscal year. The increase of \$5,062,800 PR in 1998-99 recommended by DOA would bring the Division's funding for operations to \$36,049,400. The Division's budget provides for total increases under this appropriation of \$6,146,300; however, carryover funds and moneys already provided by the Legislature this year reduces the additional funding needed to \$5,062,800. The major components of the total proposed expenditure increase for Division operations include:

Clinics and Special Events (\$1,905,600). Includes funding increases due to the Hockey Showcase and Hockey Hall of Fame game expenses, projected enrollment increases in UW athletic camps, projected increases in costs for special events including costs for concessions and catering, and increased costs of events and parking at the Kohl Center.

Event Management (\$1,799,100). Provides increased expenditure authority to reflect additional costs associated with men's and women's basketball and hockey games held at the Kohl Center and concessions and catering costs.

Other Sports -- Increases (\$720,900). Provides additional expenditure authority for men's and women's track, cross-country, tennis, golf, soccer, basketball and swimming/diving; women's crew, light crew, volleyball, spirit squad and hockey; and men's wrestling.

Other Sports -- Decreases (-\$309,900). Reduces expenditure authority for men's hockey, football and men's crew.

Support Services (\$715,400). Includes increased expenditure authority for video services, sports medicine and medical payments, Kohl Center operations, the compliance office, mail room, budget and finance, administration, facilities maintenance, academic and student services, equipment room, strength and conditioning, sports information, marketing and the ticket office.

Unitwide Overhead Costs (\$628,400). Provides additional expenditure authority primarily for the Coliseum annual payment, credit card processing fees, taxes, utilities and insurance, certain capital projects including the McClain Center roof and stadium repairs.

University Ridge Golf Course (\$491,100). Provides additional expenditure authority for the University Ridge Golf Course clubhouse improvements.

Computer Services (\$195,700). Includes additional expenditure authority for salary and fringe benefits based on demand requirements and funding for computer replacement and upgrades.

Non-Income Sports Expenditure Increases. The non-income sports expenditure authority request of \$67,400 PR would fund parking related expenses for games and special events, such as supplies, contract costs and salaries. If approved, the appropriation would total \$395,000; \$100,800 would fund parking related expenses and \$294,200 would fund scholarships for women's and men's swimming/diving, men's wrestling and women's soccer.

Gifts and Grants. In 1997-98, the Division received a one-time appropriation increase of \$31,729,200 PR, over its base of \$5,914,800 excluding carryover funds, for a total gifts and grants allotment of \$37,644,000 to fund the construction costs of the Kohl Center. The Division's current request and DOA's recommendations would delete an additional \$1,956,000 PR in 1998-99. Under DOA's recommendation, the total appropriation for the gifts and grants appropriation would be \$3,958,800 PR in 1998-99. The reduced expenditure authority reflects the completion of the construction of the Kohl Center.

Athletics Division Revenues

Revenues received by the Division are from a variety of sources. Revenues for auxiliary enterprises are primarily from sports ticket sales, radio and television contracts, NCAA revenue sharing, marketing, promotions, licensing and concessions. Non-income sports revenues are generated from parking fees assessed during sporting events. Revenues for the gifts and grant appropriation are raised through Division fundraisers, anonymous donations and pledges from basketball fans who purchase premium season tickets. In addition, \$576,400 GPR in 1998-99 is appropriated for the Division. In its 1998-99 budget for submission in November, the Division estimated total revenues from all funds would be approximately \$43,681,100 and expenditures would be approximately \$43,977,800. Excluding expenditures of \$500,000, from restricted funds, for improvements to the University Golf Course clubhouse, the Division estimated a positive ending balance of \$203,300 for 1998-99.

However, in February, 1999, the Division projected an overall deficit in 1998-99 of approximately \$1.1 million. Although operating revenues are now projected to be higher than originally anticipated, this will be offset by higher than anticipated capital expenditures and fundraising shortfalls. Specifically, the Division cites the additional one-time capital costs associated with the: (a) McClain Center artificial turf (\$300,000); (b) Goodman Softball field expansion project (\$200,000); (c) McClain Center chiller temporary replacement (\$150,000); and (d) additional Kohl Center construction costs (\$300,000). In addition, fundraising for the Goodman Softball field was approximately \$550,000 less than projected. The Division has indicated that it will fund the \$1.1 million shortfall from its reserve fund.

Reserve Balance

In response to the financial difficulties of the Athletics Department in the late 1980s, UW System and UW-Madison policies required that the Division maintain an adequate unencumbered reserve balance to be held against operating expenses, debt service and deferred repairs and maintenance/capital assets requirements. The actual reserve total for 1997-98 was \$3.9 million. The budgeted reserve balance for 1998-99, taking into account the recent deficit projections, is estimated to be \$2.8 million. The Division's 1998-99 budget includes a target reserve level, once the Kohl Center is fully operational, of approximately \$7.6 million.

1999-00 Budget

On February 26, 1999, the Athletics Board approved the Division's 1999-00 budget. The budget as approved projects a \$600,000 deficit for 1999-00 that would be funded from the reserve balance. If there are no variances to the most recent 1998-99 and 1999-00 budget projections, the reserve balance at the close of 1999-00 would be approximately \$2.2 million.

AB 133 -- Governor's Budget Recommendations for 1999-01

The Governor's 1999-01 biennial budget recommends providing an additional \$794,000 PR in 1999-00 and \$1,616,500 PR in 2000-01 for UW-Madison intercollegiate athletics. Of these amounts, the Executive Budget Book indicates that \$327,400 in 1999-00 and \$644,700 in 2000-01 would be provided for classified and unclassified salaries and \$75,000 in 1999-00 and \$152,200 in 2000-01 for fringe benefits related to projected annual salary increases of 3%. In addition, a funding increase of \$391,600 in 1999-00 and \$799,600 in 2000-01 would be provided for supplies and services, which would represent a 2.5% annual increase. If approved by the Legislature as part of the biennial budget process, these amounts would not be included in the Division's annual budget requests, rather the Division would only request adjustments to this funding, if needed.

Current Budget Process

Under the budget process established for the Division in 1991, current year budgets for the Division are reviewed half way through the fiscal year. However, this year, the 1998-99 Division budget request, which was sent to DOA on November 20, 1998, was not submitted to the Committee until the middle of February and will not be acted upon until April, 1999. Since by this time most of the items in the request have been implemented, obligated or spent and the Division indicates that there are sufficient reserve funds to cover the newly-projected deficit, it appears the most reasonable alternative available is to approve the request. With the current fiscal year almost ended, it would be difficult for the Division to reduce 1998-99 expenditures with only two full months remaining in the fiscal year.

Given this situation, the Committee may wish to consider modifying the current budget setting process for the Division. As noted above, the Division's 1999-00 budget has already been approved by the Athletics Board and is expected to be acted upon by the Board of Regents in July. Therefore, arguably the Division's budget could be submitted and reviewed prior to the end of November.

However, recent actions by the Athletics Division may affect when the Committee decides to review the Division's 1999-00 budget. The Division is currently in the process of reviewing its financial operations and putting together a long-term financial forecast. As part of this process the Division intends to: (a) generate a five-year financial forecast using the Board approved 1999-00 budget as the base year; (b) implement an internal accounting system to accurately and timely record and provide financial information to unit managers; (c) perform a detailed review of all Division spending based on staffing and operational priorities identified in its strategic plan; (d) review, analyze and streamline Booster Club and fundraising revenues; (e) develop and implement an equitable football preferential seating program to be introduced by December, 1999; (f) implement measures which would insure construction does not begin on capital projects until financing sources are identified and approved; and (g) develop and implement a comprehensive fundraising plan, over the next three to five years, that generates funds for capital maintenance and construction projects and the Division's operating budget.

Information from these actions could assist the Committee in reviewing the financial position of the Division. Included in the review of the Division's spending, the Division indicates it will perform a detailed review of all budgets. In addition, it will compile a comprehensive list of expenditures that could be reduced and an overall profile of all the sports teams including a summary of eligible services/expenses that would be associated with each sport. The Division intends to submit final reports on these items to the Athletics Board in October, 1999.

The Committee could consider requiring the Division to report to the Committee and DOA by the end of October of 1999 on its: (a) five-year financial forecast; (b) review of spending and operational priorities; and (c) any other actions or review taken which would affect long term budgeting for the Division. In addition, at that time, the Committee could require the Division to submit its 1999-00 and 2000-01 budget request. The Committee could then review the information reported and the funding requested under the 14-day passive review process and take action on the request as part of its December, 1999, s. 13.10 meeting, if needed. Through this process, the Committee would set the Division's biennial budget. All future budgets would then be set through the biennial budget process. The Division, if needed, could always request modifications to its budget, as other state agencies do, through the 14-day passive review process, s. 13.10 process or annual budget.

Finally, if after reviewing of the reports submitted by the Division, the Committee believes an independent assessment of the financial position of the Division is necessary, the Committee could recommend that the Co-Chairs request that the Legislative Audit Bureau conduct an audit of the Division's financial position.

ALTERNATIVES

1. Approve the DOA recommendations to: (a) increase the s. 20.285(5)(h) appropriation by \$5,062,800 PR in 1998-99; (b) increase the 20.285(5)(i) appropriation by \$67,400 PR in 1998-99; and (c) decrease the s. 20.285(5)(j) appropriation by \$1,956,000 PR in 1998-99.

2. In addition to alternative 1, require the Division to report to the Committee and DOA by October 31, 1999, the following: (a) the five-year financial forecast for the Division; (b) the results of a detailed review of all athletic budgets, including a list of expenditures that could be reduced, and an overall profile of all the sports teams including a summary of eligible services and/or expenses that would be associated with each sport; (c) any other long-term budget actions reviewed, developed or implemented by the Athletics Board that could affect future budgets for the Division; and (d) its 1999-01 budget request. Direct DOA to submit its recommendations on the Division's s. 16.515/505 request by November 30, 1999, so that the Committee can review the request and set the Division's biennial budget as part of the Committee's December, 1999, s. 13.10 meeting, if the Committee determines that a meeting is required. Further, request that the Division, beginning for the 2001-03 biennium, prepare biennial budget requests for inclusion in the Governor's biennial budget bill.

Prepared by: Tricia Collins

Senator Gary R. George
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Representative Carol Kelso
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JOINT COMMITTEE ON AUDIT

September 28, 1999

Mr. David Ward, Chancellor
University of Wisconsin-Madison
161 Bascom Hall
500 Lincoln Drive
Madison, Wisconsin 53706

Post-it® Fax Note	7671	Date	9/28	# of pages	1
To	Jan Mueller	From	Cathy Lange		
Co./Dept.	Audit Bureau	Co.	Sen. George		
Phone #		Phone #			
Fax #	7-0410	Fax #			

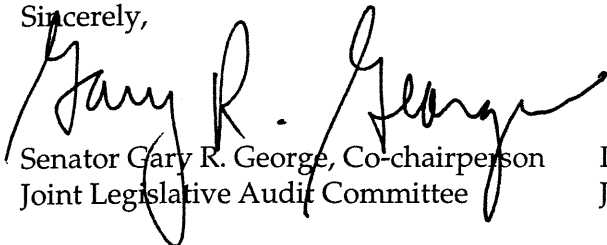
Dear Mr. Ward:

An article that appeared in the Friday, September 24 edition of *The Capital Times* contained the headline: "Badgers Expect No Audit Shockers." While staff in the Athletic Department may have been pleased by the contents of the article, we were not. The article contained a number of statements attributed to the chief financial officer of the Athletic Department. In these statements, he purported to know exactly what the Legislative Audit Bureau planned to say in its forthcoming audit of the Department.

State Auditor Mueller has informed us that, as the designated audit liaison, the chief financial officer had received periodic audit updates. However, it was inappropriate for him to speak to the media and others about what had been shared in confidence. Section 13.94, Wis. Stats, states, in part: "The [Legislative Audit] Bureau...shall at all times observe the confidential nature of any audit currently being performed." It is regrettable that a member of the Athletic Department failed to do so.

Incidents such as this one have the potential to harm our working relationship and undermine the audit and oversight process, as well as our trust in the university. As co-chairs of the Joint Audit Committee, we are extremely concerned that this incident occurred, and hope that it will not be repeated in future audits of the university.

Sincerely,


Senator Gary R. George, Co-chairperson
Joint Legislative Audit Committee


Representative Carol Kelso, Co-chairperson
Joint Legislative Audit Committee

cc: Katharine Lyall, UW System
Janice Mueller, State Auditor

Senator Gary R. George
118 South, State Capitol
P.O. Box 7882
Madison, WI 53707
Phone: 608-266-2500



Representative Carol Kelso
16 West, State Capitol
P.O. Box 8952
Madison, WI 53708
Phone: 608-266-0485

JOINT COMMITTEE ON AUDIT

September 28, 1999

Mr. David Ward, Chancellor
University of Wisconsin-Madison
161 Bascom Hall
500 Lincoln Drive
Madison, Wisconsin 53706

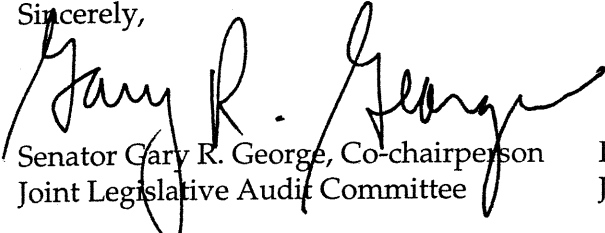
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Sincerely,


Senator Gary R. George, Co-chairperson
Joint Legislative Audit Committee


Representative Carol Kelso, Co-chairperson
Joint Legislative Audit Committee

cc: Katharine Lyall, UW System
Janice Mueller, State Auditor



State of Wisconsin \

LEGISLATIVE AUDIT BUREAU

JANICE MUELLER
STATE AUDITOR
SUITE 402
131 WEST WILSON STREET
MADISON, WISCONSIN 53703
(608) 266-2818
FAX (608) 267-0410

DATE: March 16, 1999

TO: Senator Gary R. George and
Representative Carol Kelso, Co-chairpersons
Joint Legislative Audit Committee

FROM: Janice Mueller *Janice Mueller*
State Auditor

SUBJECT: Proposed Audit of Long-Term Care for Persons with Behavioral Problems—
Background Information

At your request, we have gathered some background information the Joint Legislative Audit Committee may find useful in considering a request from Representative Robert Ziegelbauer and Representative Greg Huber for an audit of funding for the long-term care of individuals with serious behavioral problems. Subsequent requests for an audit of this issue were recently submitted by several other legislators.

The Department of Health and Family Services (DHFS) is responsible for regulating the State's nursing home program. In fiscal year (FY) 1997-98, nursing homes spent approximately \$983 million in state general purpose revenue and federal funds and provided services to approximately 50,000 individuals. As of June, 1998 there were 473 licensed nursing homes in Wisconsin with 51,520 licensed beds; 46 of the homes are county-owned institutions with 8,780 beds.

Currently, and as required by state law, DHFS reimburses nursing homes for care provided to Medical Assistance recipients and establishes daily payment rates according to the level of care provided. Rates are developed for six cost centers that include: direct care, support services, administrative services, fuel and other utilities, property taxes, municipal services, and assessments.

Nursing homes are reimbursed for either: 1) their actual costs when expenditures do not exceed the maximum rate set for a given cost center; or 2) the rate established for that cost center when they do. Maximum reimbursement rates are based on the median costs reported by nursing homes and vary according to the region of the state in which a nursing home is located. In FY 1997-98, county nursing homes had unreimbursed expenses of \$65.8 million. The requestors are concerned that these unreimbursed expenses occur, in part, because existing reimbursement mechanisms do not adequately take into account the severity of the behavioral problems of residents and their associated costs.

An audit of the Department's current funding practices for long-term care provided by county nursing facilities to individuals with behavioral problems could include:

- an analysis of recent trends in federal, state, and county expenditures for county nursing home care and the causes of these trends;
- a review of the State's nursing home reimbursement practices to determine whether the factors used in establishing reimbursement rates take into account costs associated with the severity of the patient's behavioral problems;
- a comparison of costs, including staff salary and fringe benefit costs, associated with caring for individuals with similar needs in county and privately-run nursing homes; and
- an analysis of how federal funds for reimbursement of nursing home care are allocated to nursing homes, including funds allocated through the Intergovernmental Transfer Program.

If you have any additional questions regarding this request, please contact me.

JM/PS/ao

cc: Senator Judith Robson
Senator Brian Burke
Senator Peggy Rosenzweig
Senator Mary Lazich

Representative Stephen Nass
Representative John Gard
Representative Robert Ziegelbauer
Representative David Cullen

Representative Steve Wieckert
Representative Judith Klusman
Senator Alan Lasee

Joe Leraan, Secretary
Department of Health and Family Services



State of Wisconsin \ LEGISLATIVE AUDIT BUREAU

JANICE MUELLER
STATE AUDITOR
SUITE 402
131 WEST WILSON STREET
MADISON, WISCONSIN 53703
(608) 266-2818
FAX (608) 267-0410

DATE: March 16, 1999

TO: Senator Gary R. George and
Representative Carol Kelso, Co-chairpersons
Joint Legislative Audit Committee

FROM: Janice Mueller *Janice Mueller*
State Auditor

SUBJECT: Proposed Audit of Adoption and Foster Home Procedures—Background
Information

At your request, we have gathered some background information the Joint Legislative Audit Committee may find useful in considering a request from Representative Rick Skindrud for an audit of procedures followed by the Department of Health and Family Services in determining a family's suitability for adoption. Representative Skindrud has raised questions about the Department's decision-making process for adoption placements, the continuity of both state and county requirements for foster parents and adoptive parents, and the supervision of social workers in the adoption program.

While most adoptions in Wisconsin since the 1980s have been handled by private adoption agencies, the state, through the Department of Health and Family Services, has retained the authority to place children with special needs. Special needs children are defined as children beyond the age of 10, members of sibling groups who must be placed together, members of minority groups, or children with disabilities. In fiscal year (FY) 1997-98, the Department placed 415 children with special needs in permanent homes, at an average cost of \$4,154 per placement. At the end of February 1999, the Department had 390 children awaiting placement.

Representative Skindrud's concerns were prompted, at least in part, by the events that occurred when a couple, serving as the foster parents for two children with developmental disabilities, applied to adopt the children. Most special needs children who do obtain a permanent placement are adopted by their foster parents. However, in order to adopt a special needs child, licensed foster parents must successfully pass a review of their suitability by the Department.

Concerns similar to those raised by Representative Skindrud about review procedures and the length of time necessary for parents to be determined eligible have been raised in the past. In response to earlier concerns, the Audit Bureau conducted an audit of the Special Needs Adoption Program (report 94-9). That report identified a number of management and procedural problems with the program and recommended a number of steps the Department could make to improve program management and modify the assessment process. Further, the audit raised concerns about proposals the Department was considering at the time to implement a screening device for potential families that had the potential of being construed as overly negative.

The audit report also reviewed a privatization pilot that was conducted in Wisconsin from 1989 through 1991, as well as privatization efforts in other states, and concluded that, properly implemented, several privatization models could be successful. The Governor's proposed biennial budget, AB 133/SB 45, contains provisions for some contracting out, or privatization, of adoption services for special needs children.

An audit in response to Representative Skindrud's concerns could include:

- a review of the decision-making process for assessing the suitability of families wishing to adopt and the process for matching children and families;
- a review of the continuity of requirements for foster parents and adoptive parents;
- a review of the supervision and evaluation of staff in the special needs adoption program; and
- a review of the implementation of recommendations for management improvements made in our 1994 audit of the program, report 94-9.

If you have any additional questions regarding this request, please contact me.

JM/DB/ao

cc: Senator Judith Robson
Senator Brian Burke
Senator Peggy Rosenzweig
Senator Mary Lazich

Representative Stephen Nass
Representative John Gard
Representative Robert Ziegelbauer
Representative David Cullen

Representative Richard Skindrud

Joseph Leean, Secretary
Department of Health and Family Service



Senator ALAN J. LASEE
First Senate District

March 12, 1999

The Honorable Gary George
Co-Chair, Joint Legislative Audit Committee
Room 118 South, State Capitol
Madison, Wisconsin 53702

And

The Honorable Carol Kelso
Co-Chair, Joint Legislative Audit Committee
Room 16 West, State Capitol
Madison, Wisconsin 53702

*CCL —
pls respond.
✓ w/ SA.*

Dear Co-Chairs George and Kelso:

As Wisconsin counties struggle to provide services for residents in long-term care facilities, I would like to add my voice to those requesting that the Joint Audit Committee direct the Legislative Audit Bureau to evaluate the funding of long-term care residents with significant behavior problems.

The redesign of the long-term care system will focus significantly on county resources and needs. As that should be the case, in the meantime, we cannot ignore the financial crises counties face in providing these services. An audit will provide critical information which will only help in the design and implementation of our long-term care system.

I would appreciate your consideration on this request.

Sincerely,

ALAN J. LASEE

State Senator
1st Senate District

OFFICE:

Post Office Box 7882, Madison, WI 53707-7882
Phone: 608-266-3512 FAX: 608-267-6792
Toll-free Hotline: 1-800-362-9472

HOME:

2259 Lasee Road
De Pere, WI 54115
Phone: 920-336-8830 FAX: 920-336-8830

COMMITTEES:

Agriculture, Environmental Resources and
Campaign Finance Reform
Insurance, Tourism, Transportation and Corrections



WISCONSIN LEGISLATURE

P.O. BOX 8952 · MADISON, WI 53708

January 21, 1999

Representative Carol Kelso and
Senator Gary George, Co-Chairs
Joint Legislative Audit Committee
State Capitol

Dear Representative Kelso & Senator George:

Nursing homes that care for persons with serious behavioral problems are required to provide these residents with appropriate care, as prescribed by professional standards and federal regulations. Although care for many of these residents is reimbursable by federal Medical Assistance up to levels defined by federal reimbursement formulae, costs in excess of federal reimbursement must be subsidized by other funds.

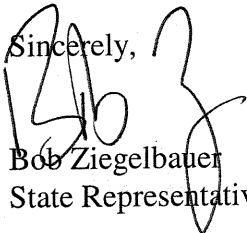
County-owned institutions have traditionally cared for a large proportion of these clients, and have also frequently required the use of local property tax revenues to cover costs. In recent years, several developments, including increased federal restriction on the use of restraints and changes in the statewide allocation of available funds may have made it more difficult for county homes to provide appropriate care without increasing local subsidies.

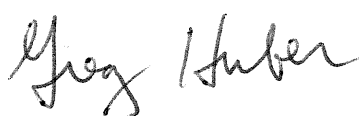
Therefore, we are requesting that the Joint Audit Committee direct the Legislative Audit Bureau to evaluate the funding of long-term care of residents with significant behavioral problems. Such an evaluation could examine:

- recent trends in federal, state and county costs of care provided in county nursing homes and the causes of these trends;
- whether current reimbursement mechanisms adequately take into account special behavioral needs of certain residents; and
- how federal funds received as reimbursement for intergovernmental transfer payments for nursing home care are allocated by the Department.

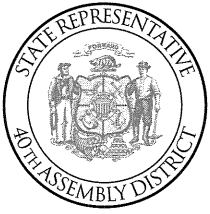
Thank you for your consideration of this request.

Sincerely,


Bob Ziegelbauer
State Representative


Greg Huber
State Representative





JEAN HUNDERTMARK
STATE REPRESENTATIVE
40TH ASSEMBLY DISTRICT

March 12, 1999

Representative Carol Kelso and
Senator Gary George, Co-Chairs
Joint Legislative Audit Committee
State Capitol

Dear Representative Kelso and Senator George:

County-owned institutions have traditionally held the reputation as being safe havens for long-term residents with significant behavioral problems. Unfortunately, Medicaid reimbursements have not kept pace with the increases in the cost of care for these individuals. In short, local property taxpayers are finding that they have to make up for any shortfalls, which can run into the hundreds of thousands of dollars.

I am requesting that the Joint Audit Committee direct the Legislative Audit Bureau to evaluate current funding mechanisms for county nursing home facilities, so that a more equitable solution can be found to this problem.

Thank you in advance for your consideration.

Sincerely yours,

Jean Hundertmark
State Representative
40th Assembly District

cc: Jim Schuette
Outagamie County Executive

Capitol Office:
Post Office Box 8952 • Madison, Wisconsin 53708-8952
Toll-Free: (888) 947-0040 • (608) 266-3794
Fax: (608) 282-3640 • Rep.Hundertmark@legis.state.wi.us

40th Assembly District:
E8815 River Road • Clintonville, Wisconsin 54929 • (715) 823-2241



Judy Klusman
Wisconsin State Representative

CCL -

March 5, 1999

TKL.

Senator Gary George, Co-Chair
Joint Legislative Audit Committee
118 South, State Capitol
Madison, WI 53707

Dear Senator George,


I write to request that the Joint Audit Committee direct the Legislative Audit Bureau to evaluate the funding of long-term care of residents with significant behavioral problems that receive services from county nursing home facilities.

Because health centers provide care to many residents with such problems, and because Medicaid reimbursements are insufficient to pay for the cost of care for these individuals, there is an important need to examine alternative sources of revenues besides the local property tax. This evaluation could examine:

- Recent trends in federal, state and county costs of care provided in county nursing homes and the causes of these trends;
- Whether current reimbursement mechanisms adequately take into account special behavioral needs of certain residents;
- How federal funds received as reimbursement for intergovernmental transfer payments for nursing home care are allocated by the Department.

Thank you for your consideration regarding this request. If you have any questions, please call my office at 266-7500.

Sincerely,


Judith A. Klusman
WI State Representative
56th Assembly District

cc: Jim Schuette, Outagamie County Executive



State of Wisconsin \

LEGISLATIVE AUDIT BUREAU

JANICE MUELLER
STATE AUDITOR
SUITE 402
131 WEST WILSON STREET
MADISON, WISCONSIN 53703
(608) 266-2818
FAX (608) 267-0410

DATE: April 19, 1999

TO: Senator Gary R. George and
Representative Carol Kelso, Co-chairpersons
Joint Legislative Audit Committee

FROM: Janice Mueller
State Auditor *Janice Mueller*

SUBJECT: Proposed Audit of the ~~Prevailing Wage Laws~~—Background Information

At your request, we have gathered some background information the Joint Legislative Audit Committee may find useful in considering a request from Senators Roger Breske and Brian Burke for an audit of the State's prevailing wage laws. Senators Breske and Burke have raised a number of questions regarding the enforcement of those laws by the Departments of Transportation (DOT) and Workforce Development (DWD).

Sections 103.49 and 103.50, Wis. Stats., contain requirements that prevailing wages must be paid to persons engaged in state building construction contracts and highway construction. The Department of Workforce Development is responsible for determining the prevailing wages and hours of work for each trade and occupation engaged in building construction in each area of the state. An area can be a county, or if insufficient information wage data is available in that county, any number of contiguous counties sufficient to provide adequate information. State agencies are required to obtain wage and hours of work information from DWD prior to requesting bids.

Upon completion of a project, but before receiving final payment, subcontractors are required to submit to contractors an affidavit stating the subcontractor fully complied with the prevailing wage and hours of work requirements, and contractors are similarly required to submit affidavits to the state agency authorizing the work. Contractors and subcontractors are required to maintain adequate payroll and other records to support their affidavits which can be examined by DWD as part of its enforcement responsibilities for the requirements. For highway contracts, DWD establishes the prevailing wage and hours of work, but DOT is responsible for enforcement.

Senators Breske and Burke have raised a number of specific questions concerning the adequacy of the enforcement of the prevailing wage requirements, ranging from requests for factual data on the number of complaints filed and backlogs, to program cost information, to relatively subjective questions, such as whether employes have sufficient information needed to comply with the law. An audit could collect the factual information necessary to answer the majority of the questions posed, but may be less successful in finding sufficient information to fully respond to the more subjective questions.

If you have any questions concerning this request, please contact me.

JM/DB/ce

cc: Senator Judith Robson
Senator Brian Burke
Senator Peggy Rosenzweig
Senator Mary Lazich

Representative Stephen Nass
Representative John Gard
Representative Robert Ziegelbauer
Representative David Cullen

Senator Roger Breske

Linda Stewart, Secretary
Department of Workforce Development

Charles Thompson, Secretary
Department of Transportation



*Senator Gary R. George
State of Wisconsin
Sixth Senate District*

118 South, State Capitol Building
P. O. Box 7882
Madison, WI 53707-7882
(608) 266-2500

4011 W. Capitol Drive
Milwaukee, WI 53216
(414) 445-9436
(800) 362-9472

Facsimile Cover Sheet

Please deliver to the individual named below.

To: Mr. Brian Mitchell

Phone:

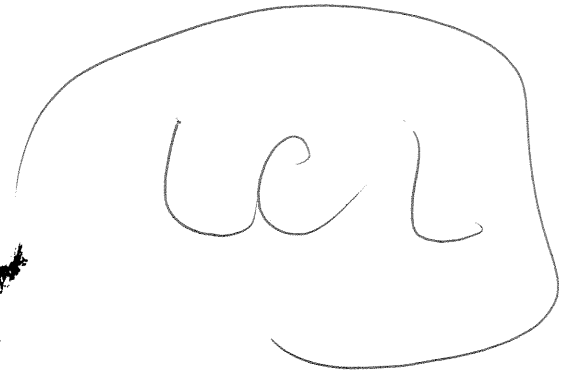
Fax: 414/271-2002

From: Cathy Lange
Office of Senator Gary R. George

Number of pages: 2 pages to follow

Message:

Per your request.



WISCONSIN STATE SENATE

March 1, 1999

Senator Gary George
Co-Chair, Joint Committee on Audit
The State Capitol
Room 118 South
VIA INTER-DEPARTMENTAL MAIL

Representative Carol Kelso
Co-Chair, Joint Committee on Audit
The State Capitol
Room 16 West
VIA INTER-DEPARTMENTAL MAIL

Dear Senator George and Representative Kelso:

Since the 1930s, both the federal government and State of Wisconsin have had laws on the books requiring that construction contractors working on government funded projects pay their employees wages no less than the prevailing wage paid in their occupation by private contractors in their locality. These laws were created to make sure that contractors bidding on public projects do so on the basis of skill and efficiency, not on how poorly they pay their workers.

Prevailing wage laws ensure that construction employees are paid a fair wage on government projects. The law was enacted to maintain community wage standards, promote economic stability and protect taxpayers from substandard labor on state and federal projects. In our opinion, the law has worked well historically.

Prevailing wage laws in Wisconsin are administered by the Departments of Transportation and Workforce Development. In addition, nine local governments enforce their own provisions. In recent years, enforcement actions appear to have weakened. If this is true, workers are receiving reduced levels of wages and fringe benefits than authorized by law. This is unfair and illegal.

Wisconsin law has severe penalties for non-compliance with prevailing wage laws. Submission of false affidavits by a contractor is a Class D felony. Wisconsin statute §946.15 relates to public construction contracts at less than the full rate. Violations are subject to a Class E felony. Employers are also subject to debarment from future public construction contracts.

While the penalties for non-compliance of prevailing wage laws are clear, enforcement is not. There appears to be a clear pattern of non-enforcement of the existing law. In the few cases that are brought to justice, the process often takes years.

That is why we are asking the Joint Committee on Audit to conduct a program and management audit of the Prevailing Wage Section of the Equal Rights Division of the Department of Workforce Development and the Prevailing Wage Section of the Department of Transportation.

An audit could look at a number of issues, including the following:


1. How many complaints have resulted in debarments or been filed with local District Attorney's? How does the Wisconsin compare with other states? For example, the DOT has stated that as of the end of 1997, only two cases had been referred to the District Attorney in the prior six years. Is the repayment of wages the usual penalty prescribed? If so, what incentive is there for an employer to comply with the law?
2. How does the DWD get information relating to prevailing wage law enforcement to employers and employees? Do employers and employees have the necessary information needed to comply with the law? For example, are employees notified of laws, procedures and other support mechanisms in place to protect workers seeking their rights under the law?
3. How well are wage surveys working? How do they compare with what is actually happening in the workplace? For example, two separate labor unions last year saw eight million hours worked as reported to their pension funds, while the DWD only could account for three million hours.
4. Is there a better way to force compliance than employee complaints? For example, on third party fair-contracting organization has filed 191 complaints on behalf of workers since January of 1995. These filings have resulted in the awarding of over \$200,000 in back pay and benefits to individual workers. These filings may also represent an additional \$255,000 in back pay and benefits that are pending. Employees, especially in construction, are reluctant to file complaints for reasons ranging from job fears to the lack of documentation. This means that many potential complaints are never heard.
5. Case backlogs. Instead of the DWD auditing contractors when a complaint occurs, contractors now do a self-audit. How is this working? Is the DWS getting relevant information in a timely manner? What mechanisms are in place to ensure that the information being given is accurate? Is there a current backlog in case reviews?


6. Are fringe benefits properly reported? Since employees have to file complaints and many employees do not understand how fringe benefit ratios work, few are ever reported. Is there a better way to report complaints relating to fringe benefits?
7. Some contractors have had numerous complaints. What criteria is established to issue debarments. Is that criteria intended to deter violators? Is the criteria evaluated to determine its effectiveness? Is there a pattern relating to lack of enforcement of compliance issues?

In 1996, the Legislature passed Senate Bill 373, which made several modifications to prior prevailing wage statutes. In addition, the DWD is working with business and labor groups on remedial legislation. The fact is, however, that neither the 1996 legislation nor the remedial legislation fixes the problems addressed by this audit request and should not be viewed as reasons to delay an audit.

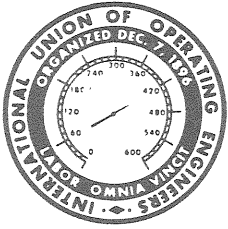
Prevailing wage laws are extremely important to construction workers in Wisconsin. Lack of enforcement hurts workers ability to make a fair wage. We urge the Audit Committee to direct the Legislative Audit Bureau to create a scope report that can be adopted by the full committee. Wisconsin workers deserve no less.

Sincerely yours,


BRIAN BURKE
State Senator
3rd Senate District


ROGER BRESKE
State Senator
12th Senate District

RB/vlv



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International Union of Operating Engineers

LOCAL ONE HUNDRED AND THIRTY-NINE

CHARTERED FOR THE STATE OF WISCONSIN

N27 W23233 ROUNDY DRIVE P.O. BOX 130 PEWAUKEE, WISCONSIN 53072

PHONE: (414) 896-0139 FAX (414) 896-0758

DALE A. MILLER
Business Manager

To: Members of the Joint Audit Committee

From: Joe Wineke, Political Coordinator Local 139-Operating Engineers

Date: April 20, 1999

Re: Proposed audit of prevailing wage enforcement by the Departments of Workforce Development and Transportation

Since the 1930's, both the federal government and the state of Wisconsin have had laws on the books requiring that construction contractors working on government funded projects pay their employees wages no less than the prevailing wage paid in their occupation by private contractors in their locality. Known as the Davis-Bacon Act, these laws were created to make sure that contractors bidding on public projects do so on the basis of skill and efficiency, not on how poorly they pay their workers. We believe that the law has worked well historically.

In recent years, however, it is our belief that enforcement actions have been weakened. If this is true, this means that workers are getting a lower level of benefits than they are entitled under the law. This is not only unfair to workers and their families, it is illegal.

Wisconsin law carries sufficient penalties to deter unscrupulous contractors from violating the law. **PENALTIES ONLY WORK, THOUGH, IF THEY ARE ENFORCED. THERE APPEARS TO BE A CONSISTENT PATTERN OF NON-ENFORCEMENT OF THE EXISTING LAW.** That is why we are asking the Joint Committee on Audit to conduct a program and management audit of the Prevailing Wage Section of the Equal Rights Division of the Department of Workforce Development and the Prevailing Wage Section of the Department of Transportation.

We believe that the questions raised by Senator's Burke and Breske in their audit request will give the Audit Bureau sufficient direction to find out if our concerns are with merit. Obviously, we believe they are. Our goal is simply to make the law work better by better enforcement. Construction workers in Wisconsin deserve no less. On their behalf, we urge you to adopt this audit request.

BRANCH OFFICES:

Appleton: 5191 Abitz Road
Appleton, Wisconsin 54915
Phone: (920) 739-6378

Madison: 3231 Laura Lane
Middleton, Wisconsin 53562
Phone: (608) 836-0139

Eau Claire: 1003 Hillcrest Parkway
Altoona, Wisconsin 54720
Phone: (715) 838-0139

DRAFT

DATE:

TO: Senator Gary R. George and
Representative Carol Kelso, Co-chairpersons
Joint Legislative Audit Committee

FROM: Janice Mueller
State Auditor

SUBJECT: Proposed Audit of the Prevailing Wage Laws—Background Information

At your request, we have gathered some background information the Joint Legislative Audit Committee may find useful in considering a request from Senators Roger Breske and Brian Burke for an audit of the state's prevailing wage laws. Senators Breske and Burke have raised a number of questions regarding the enforcement of those laws by the Departments of Transportation (DOT) and Workforce Development (DWD).

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Upon completion of a project, but before receiving final payment, subcontractors are required to submit to contractors an affidavit stating the subcontractor fully complied with the prevailing wage and hours of work requirements, and contractors are similarly required to submit affidavits to the state agency authorizing the work. Contractors and subcontractors are required to maintain adequate payroll and other records to support their affidavits which can be examined by DWD as part of its enforcement responsibilities for the requirements. For highway contracts, DWD establishes the prevailing wage and hours of work, but DOT is responsible for enforcement.

Senators Breske and Burke have raised a number of specific questions concerning enforcement of the prevailing wage requirements, ranging from requests for factual data on the number of complaints filed and backlogs, to relatively subjective questions, such as whether employees have sufficient information needed to comply with the law. An audit could collect the factual information necessary to answer the majority of the questions posed, but may be less successful in finding sufficient information to fully respond to the requestors more subjective questions.

DRAFT

If you have any questions concerning this request, please contact me.

JM/DB/ce

cc: Senator Judith Robson
Senator Brian Burke
Senator Peggy Rosenzweig
Senator Mary Lazich

Representative Stephen Nass
Representative John Gard
Representative Robert Ziegelbauer
Representative David Cullen

Senator Roger Breske
Senator Brian Burke

Linda Stewert
Department of Workforce Development

Charles Thompson
Department of Transportation

State of Wisconsin



GARY R. GEORGE
SENATOR

February 18, 1999

Mr. Joe Wineke
Political Coordinator
International Union of Operating Engineers
N27 W23233 Roundy Drive
Post Office Box 130
Pewaukee, WI 53072

Dear Mr. Wineke:

Thank you for your letter regarding an audit of the Department of Workforce Development's and the Department of Transportation's enforcement of the prevailing wage laws.

When I receive that audit request from Senators Breske and Burke I will be sure that it is forwarded to Jan Mueller. We will soon be reviewing all the audit requests we have received and I will keep your thoughts in mind. I will inform you as soon as I know whether or not the Audit Bureau will perform an evaluation of this law.

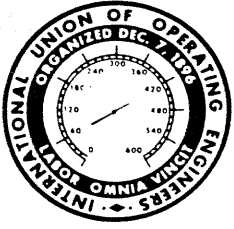
Again, thank you for stopping by my office. I look forward to talking with you soon.

Sincerely,

GARY R. GEORGE
State Senator
Sixth Senate District

I'm your guy!

BRG COPY



International Union of Operating Engineers

LOCAL ONE HUNDRED AND THIRTY-NINE

CHARTERED FOR THE STATE OF WISCONSIN

N27 W23233 ROUNDY DRIVE P.O. BOX 130 PEWAUKEE, WISCONSIN 53072

PHONE: (414) 896-0139 FAX (414) 896-0758

DALE A. MILLER
Business Manager

Senator Gary George
Co-Chair, Joint Committee on Audit
Room 118 South
State Capitol
Madison, WI 53708

Dear Senator George,

As you know, I am now employed by the Operating Engineers Local 139. In that role, I have now seen first-hand, the problems construction employees have with prevailing wage laws. I write to ask your help in securing an audit of the Departments of Workforce Development and Transportation relating to prevailing wage law enforcement.

This issue is incredibly important to construction trade unions. On this issue, I have worked closely with the Laborer's union and the International Brotherhood of Teamsters. All badly want to see the law enforced.

Enclosed is a draft copy of an audit request that I have asked Senator Breske and Senator Burke to send to you. I would appreciate any ideas that you have relating to the request.

Gary, this issue is very important to me personally. I would like to show my new employers that I can get things done. Thanks in advance for your help. I will call you soon.

Sincerely,

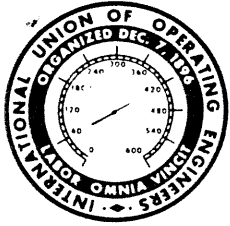
Joe Wineke
Political Coordinator
Operating Engineers Local 139

BRANCH OFFICES:

Appleton: 5191 Abitz Road
Appleton, Wisconsin 54915
Phone: (414) 739-6378

Madison: 3231 Laura Lane
Middleton, Wisconsin 53562
Phone: (608) 836-0139

Eau Claire: 1003 Hillcrest Parkway
Altoona, Wisconsin 54720
Phone: (715) 838-0139



International Union of Operating Engineers

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PHONE: (414) 896-0139 FAX (414) 896-0758

DALE A. MILLER
Business Manager

To: Senator Brian Burke and Senator Roger Breske

From: Joe Wineke

Date: February 9, 1999

Re: Your help in making sure that Wisconsin worker's are protected by our prevailing wage law statute.

As you are both aware, workers in Wisconsin are receiving little protection from our state government from unscrupulous employers as it relates to Wisconsin's prevailing wage law. Thank you for agreeing to work with us in our attempt to protect worker's rights.

Both the state and federal government have had prevailing wage laws since the 1930's. These laws were created to make sure that contractors bidding on public projects do so on the basis of skill and efficiency, not on how poorly they pay their workers. They can only work, though if the government is willing to enforce the law.

The Operating Engineers Local 139, the Wisconsin Laborers District Council and the International Brotherhood of Teamsters, ask for your help on two fronts. First, is to request an audit of the Departments of Workforce Development and Transportation. We have drafted a request for the audit for your perusal. Second, is to convene a meeting with the Secretary's of the two departments as well as their prevailing wage law staff to address the problems that we are having with the two agencies.

Relating to the audit request, the main focus is enforcement. While we would like to see improvements in the law, the existing Davis-Bacon provisions would work if the Departments enforced the law. There have been few debarments and even fewer prosecutions. Even the Republicans are taking notice of this issue. Getting an audit done is a win-win for labor and Democrats.

The second request is a little different. The DOT and DWD are giving contradictory sets of guidelines when it comes to how they will make prevailing wage

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Phone: (715) 838-0139

determinations. This is causing a lot of problems, especially for the Teamsters. I will brief you on this before the meeting.

We believe that by bringing in the heads of the two agencies, along with the appropriate prevailing wage personnel, that you can embarrass the two departments into compliance.

If you have any questions, please give me a call at 836-0139. Otherwise, I will be in touch with you soon.

State of Wisconsin



GARY R. GEORGE
SENATOR

March 12, 1999

The Honorable Roger Breske
Wisconsin State Senate
18 South, State Capitol Building
Madison, WI 53702

Dear Senator Breske:

A handwritten signature in cursive script that reads "Roger".

Thank you for your letter requesting an audit of Wisconsin's Prevailing Wage Law.

Representative Carol Kelso, Jan Mueller and I will soon be meeting to review all the audit requests we have received thus far. I will keep your thoughts in mind as we determine which audits will be performed.

Again, thank you for your letter.

Sincerely,

A handwritten signature in cursive script that reads "Gary".

GARY R. GEORGE
State Senator
Sixth Senate District

State of Wisconsin



GARY R. GEORGE
SENATOR

March 12, 1999

The Honorable Brian Burke
Wisconsin State Senate
316 South, State Capitol Building
Madison, WI 53702


Dear Senator Burke:

Thank you for your letter requesting an audit of Wisconsin's Prevailing Wage Law.

Representative Carol Kelso, Jan Mueller and I will soon be meeting to review all the audit requests we have received thus far. I will keep your thoughts in mind as we determine which audits will be performed.

Again, thank you for your letter.

Sincerely,



GARY R. GEORGE
State Senator
Sixth Senate District



State of Wisconsin \

LEGISLATIVE AUDIT BUREAU

JANICE MUELLER
STATE AUDITOR
SUITE 402
131 WEST WILSON STREET
MADISON, WISCONSIN 53703
(608) 266-2818
FAX (608) 267-0410

DATE: April 19, 1999

TO: Senator Gary R. George and
Representative Carol Kelso, Co-chairpersons
Joint Legislative Audit Committee

FROM: Janice Mueller
State Auditor

SUBJECT: Proposed Audit of the Use of State Hearing Examiners—Background Information

At your request, we have gathered some background information the Joint Legislative Audit Committee may find useful in considering a request from Senator Dale Schultz for an audit of the State's use of hearing examiners. Senator Schultz has raised questions about the performance of hearing examiners, their productivity, and their supervision.

Department of Employment Relations staff indicate that the number of state hearing examiners, who are also called administrative law judges, currently totals 105 full-time equivalent attorney positions. Most hearing examiners are employed by the Department of Workforce Development (DWD), which has 70 positions, and the Department of Administration, which has 20. Smaller numbers of hearing examiners are also employed by the Department of Health and Family Services and other agencies.

DWD employs administrative law judges primarily for hearings stemming from disputes in three different programs: workers' compensation claims; unemployment insurance cases; and discrimination cases referred to the Equal Rights Division. The Department of Administration's Division of Hearing and Appeals handles administrative law hearings for a number of state agencies, including the Departments of Corrections, Justice, Natural Resources, Public Instruction, and Transportation, as well as hearings concerning the Wisconsin Works (W-2) program.

Initial discussions with several supervisors of hearing examiners indicate there are considerable differences in the types of cases which are heard, and differences in caseload. Unemployment Insurance and Workers' Compensation examiners hear an average of approximately 12 cases per week; Equal Rights examiners hear an average of approximately 3 cases per week. Supervisors for hearing examiners for the Unemployment Insurance program indicate examiners must meet federal requirements for reporting monthly productivity statistics. However, it is not clear whether hearing examiners for other state programs have similar reporting requirements.

An audit of the State's use of hearing examiners could:

- determine the caseload for each type of hearing held;
- analyze existing caseload standards; and
- review supervisory oversight of hearing examiners.

If you have any questions about this audit request, please contact me.

JM/DB/ce

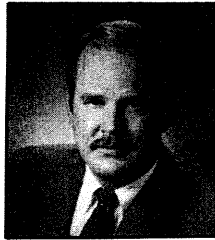
cc: Senator Judith Robson
Senator Brian Burke
Senator Peggy Rosenzweig
Senator Mary Lazich

Representative Stephen Nass
Representative John Gard
Representative Robert Ziegelbauer
Representative David Cullen

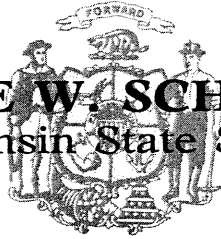
Senator Dale Schultz

Linda Stewart, Secretary
Department of Workforce Development

Mark Bugher, Secretary
Department of Administration



DALE W. SCHULTZ
Wisconsin State Senator



April 5, 1999

Senator Gary George, Co-Chair
Representative Carol Kelso, Co-Chair
Joint Legislative Audit Committee

Dear Senator George and Representative Kelso:

I formally request that the Joint Legislative Audit Committee direct the Legislative Audit Bureau to conduct an evaluation of the use of hearing examiners by the state.

It is my understanding that the state employs approximately 100 hearing examiners, also known as administrative law judges. Hearing examiners rule on a broad number of sensitive, important disputes involving numerous state agencies and programs, including worker's compensation, unemployment insurance, equal rights, as well as issues which arise in programs operated by the Departments of Corrections, Natural Resources, Public Instruction, Transportation, and others.

While hearing examiners perform an important and highly visible role for state government, concerns have been brought to my attention about the performance of examiners, their productivity, and the adequacy of their supervision. While hearing examiners must issue rulings in a number of complex legal areas, it is my understanding that some examiners have formal performance goals while others do not.

I believe an examination by the Audit Bureau of the state's use of hearing examiners, including their workload, numbers of cases settled before hearings, productivity standards, and types of oversight, will provide the Legislature useful information about this important function in state government.

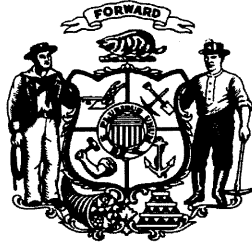
Thank you for your consideration of this request.

With kindest regards


Dale W. Schultz
17th State Senate District

Member: Joint Committee on Finance

State Capitol, P.O. Box 7882, Madison, WI 53707-7882
OFFICE: 608-266-0703 • HOME: 608-647-4614
CALL TOLL-FREE: 1-800-978-8008



Senator Dale Schultz

17th Senate District

P.O. Box 7882,
Rm. 514 M.L.K.
Madison, WI 53707-7882

(608) 266-0703
(800) 978-8008
FAX (608) 575-6670

April 21, 1999

Senator Gary George and
Representative Carol Kelso, Co-chairpersons
Joint Legislative Audit Committee

Thank you, Chairman's George, Chairwomen Kelso, and members of the committee, for this opportunity to ask for your consideration of my request for an audit of the State Hearing Examiners.

I regret that I am unable to submit this request in person. A previous commitment to constituents in my district precludes me from making a personal appearance.

I respectfully request that the Legislative Audit Bureau review the performance, work load distribution and productivity of all the hearing examiners employed by various agencies within state government.

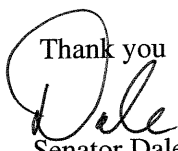
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I believe an examination by the Audit Bureau of the State's use of hearing examiners, including their workload, numbers of cases settled before hearings, productivity standards, and types of oversight and supervision, will provide the Legislature useful information about this important function in state government.

This audit would provide an opportunity to identify areas in which improvements can be made in the efficiency, effectiveness, and performance levels of these state employees.

Thank you for promptly scheduling my request. I strongly encourage the committee to approve this audit recommendation.

Thank you


Senator Dale Schultz
17th Senate District