



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: January 11, 1998

TO: Catherine Lang and Tom Christianson  
Committee Clerks to the Joint Legislative Audit Committee

FROM: Paul J. Stuiber *PJS*  
Program Evaluation Director

SUBJECT: Audit Report 99-1: An Evaluation of the Youth Aids Program

Enclosed is our evaluation of the Youth Aids Program, which was established to provide funding to counties to pay for juvenile delinquency services, including placement of youth in juvenile correctional institutions (JCI). The audit was requested by Senator Panzer, Senator Rosenzweig, and Representative Ourada who were interested in recent trends in state and county expenditures for delinquency-related programs as well as an analysis of the effects of recent statutory changes on program costs.

We found that state funding for Youth Aids, which was \$81.2 million in 1998, has not kept pace for the demand for these types of services. For example, in 1992 Youth Aids funds covered 64.7 percent of all county juvenile delinquency expenditures. By 1997, the proportion of costs covered by these funds had fallen to 45.4 percent of the \$181.4 million spent. This is the result of both an increase in the amount of services being provided, as well as an increase in the cost of providing services.

Our analysis also indicates that the data used in the initial allocations have never been updated to reflect changes over time. However, reallocation is likely to be controversial, because while 14 counties would gain funding, including an additional \$13 million for Milwaukee County, 58 counties would see their allocations reduced. It is important to note that this does not mean that some counties are over funded, only that over time the relative need for Youth Aids funding has shifted based on the original factors used to determine need. Preventing any county from losing funding if the allocation formula were updated with current information may cost the State more than \$9 million.

There is likely to be considerable interest in our report, because counties have become increasingly concerned about the level of funding and the amount the State charges for JCI placements. These concerns are likely to increase when JCI operating costs rise when a facility in Prairie du Chien that is currently used to house adults rather than juveniles is converted to a JCI, as originally had been planned.

We also looked at various programs designed to reduce county delinquency costs. For example, the Serious Juvenile Offender Program, and its predecessor, were created to lessen county financial burdens by having the state incur all costs associated with juveniles who commit certain serious offenses. However, because the Youth Aids appropriation was reduced to help fund

these programs, state aid to counties was actually reduced by \$3.9 million from January 1995 through June 1998. Some counties appear reluctant to use the Serious Juvenile Offender Program as a disposition option.

The report includes no recommendations, but it does discuss a number of policy options the Legislature may wish to consider. That last chapter of the report lays out these options in a concise manner.

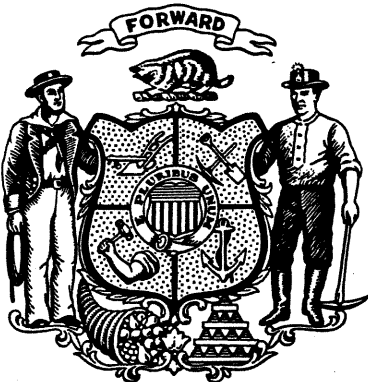
Counties are likely to push for increased state funding in light of our findings, but that may not be feasible given current budget constraints. If a hearing on the report is scheduled, we can provide you with a list of individuals you may wish to invite.

The report will be released on Tuesday, January 12, at 2 p.m. If you have any additional questions, please contact me.

PS/ce

Enclosures

END



END



State of Wisconsin \

LEGISLATIVE AUDIT BUREAU

JANICE MUELLER  
STATE AUDITOR  
131 W. WILSON ST., STE. 402  
MADISON, WISCONSIN 53703  
(608) 266-2818  
FAX (608) 267-0410  
Leg.Audit.Info@legis.state.wi.us

DATE: December 8, 1999

TO: Robin Lickel and Chris Schneider  
Committee Clerks to the Joint Legislative Audit Committee

FROM: Paul J. Stuber *PS*  
Program Evaluation Director

Diann Allsen *DA*  
Financial Audit Director

SUBJECT: Audit Report 98-19: An Audit of the Division of Gaming

Enclosed is our evaluation of the Division of Gaming within the Department of Administration. This report meets both of our statutory requirements under s. 13.94 (1)(eg), Wis. Stats.—an annual financial audit and a biennial program evaluation of the Division of Gaming. Because the audit is statutorily required, there is no requestor.

Over the past several years, there has been a substantial shift in the revenue generated from gaming activities. From fiscal year (FY) 1994-95 to FY 1998-99, tax revenues from pari-mutuel racing declined from \$4.7 million to \$2.0 million (53.2 percent), and tax revenue from bingo declined from \$566,000 to \$490,000 (13.4 percent). There is no indication that these trends are likely to reverse themselves in the near future. In contrast, as a result of renegotiated tribal gaming compacts, revenues the State receives from Indian gaming increased from \$350,00 in FY 1996-97 to an anticipated total of \$22.1 million in FY 1999-2000.

We focused our review on Indian gaming, which represents the most significant gaming activity in the state. The Division has had difficulty filling positions within the Office of Indian Gaming, which regulates tribal casinos. The Office has not been fully staffed since the summer of 1997, and at the current time 3 of its 10 positions are vacant. Staffing problems have aggravated the Office's attempts to conduct onsite audits of casinos. Most troubling is the trend since 1996: the number of field audits of casinos has declined as the number of filled positions has increased. In 1996, nine field audits were conducted, while as of November 1, 1999, only two field audits had been conducted.

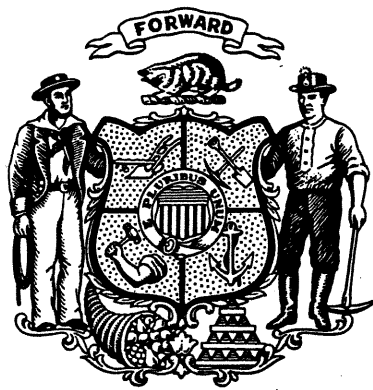
The Legislature authorized three additional positions for the Office of Indian Gaming as part of the 1999-2001 biennial budget and provided revenue to fund two computer systems to automate the process by which gaming device information, including slot machine activity, is reported to the Office. We have included recommendations for the Office to report to the Joint Legislative Audit Committee on its progress in filling the positions awarded and correcting the problems we have identified.

The report will be released on Thursday, December 9, at 2 p.m. If you have any additional questions, please contact us.

PS/DA/bm

Enclosures

*END*



*END*



Wisconsin Counties Association

June 29, 2000

TFL

Representative Carol Kelso  
Joint Committee on Audit  
P.O. Box 8952  
Madison, WI 53708

Senator Gary George  
Joint Committee on Audit  
P.O. Box 7882  
Madison, WI 53707-7882

Co-Chairpersons Kelso and George:

On behalf of the Wisconsin Counties Association (WCA) I would like to request that the Joint Committee on Audit direct the Legislative Audit Bureau to conduct an audit of the Wisconsin Department of Revenue's county sales tax administration.

The Wisconsin Department of Revenue currently administers the county sales tax and charges a processing fee to counties. Recently, the Wisconsin Department of Revenue underpaid 53 counties (all the counties with a sale tax) more than 13 million dollars in county sales tax revenue. This drastic underestimation on behalf of the Department of Revenue has caused great concern to numerous counties throughout the state.

In 1997, the Department of Revenue estimated that administering the counties' sales tax cost 1.3% of the total county sales tax collected. At that time, WCA advocated that the sales tax administration fee be reduced from 1.5% to more accurately reflect the true administrative cost.

In the last biennial budget, however, the Governor instead increased the administrative fee to 1.75%, to cover the costs of new computer software that will assist the Department of Revenue in administering the county sales tax.

WCA requests that the Joint Committee on Audit investigate whether or not counties are now receiving their full sales tax revenue dollars. In addition, we request that you determine the exact cost to the Department of Revenue related to the administration of the county sales tax.

Thank you for considering our request, if you have any questions please do not hesitate to contact Ms. Allison Kujawa at the WCA office at (608) 224-5330.

Sincerely,

Mark M. Rogacki  
Executive Director

100 River Place, Suite 101 ♦ Monona, Wisconsin 53716 ♦ 608/224-5330 ♦ 800/922-1993 ♦ Fax 608/224-5325

Mark M. Rogacki, Executive Director

Mark D. O'Connell, Chief of Staff  
Craig M. Thompson, Legislative Director

Darla M. Hium, Deputy Director  
Lynda L. Bradstreet, Administrative Director

INTERGOVERNMENTAL RELATIONS  
COURTHOUSE, ROOM 306  
901 NORTH 9<sup>TH</sup> STREET  
MILWAUKEE, WISCONSIN 53233



# Fax

**To:** SENATOR GARY GEORGE  
CO-CHAIR—AUDIT COMMITTEE

**From:** ROY DE LA ROSA, DIRECTOR  
INTERGOVERNMENTAL RELATIONS

**Fax:**

**Pages:** 3, INCLUDES COVERSHEET

**Phone:**

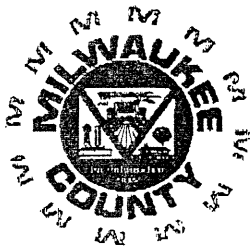
**Date:** 08/30/00

**Re:** AUDIT—COUNTY SALES TAX  
ADMINISTRATION

**CC:** JOINT AUDIT COMMITTEE

Urgent     For Review     Please Comment     Please Reply     Please Recycle

• **Comments:**



## INTERGOVERNMENTAL RELATIONS

Office of the County Executive

TO: Senator Gary George, Co-Chair  
Representative Carol Kelso, Co-Chair  
Members of the Joint Legislative Audit Committee

FROM: Roy de la Rosa, Director, Milwaukee County Intergovernmental Relations

DATE: August 30, 2000

SUBJECT: Proposed Audit on Wisconsin Department of Revenue County Sales Tax Administration

Milwaukee County respectfully urges members of the Joint Legislative Audit Committee to approve the audit request of the Wisconsin Department of Revenue's (DOR) county sales tax administration. Since Milwaukee County implemented a county sales tax in 1991, Milwaukee County has discussed with the DOR numerous concerns with regard to the State's collection and administration of county sales tax. We are pleased to say that DOR has addressed some of our concerns. For example, DOR remits sales tax revenue to counties on a monthly basis, instead of a quarterly basis, which helps to alleviate county cash flow problems. There are, however, a number of outstanding issues associated with the State's collection, distribution and administration of county sales tax, which should be reviewed by an independent agency, such as the Legislative Audit Bureau (LAB).

Milwaukee County, along with other counties, wants to ensure that the State of Wisconsin is collecting and distributing sales tax revenue to counties in an accurate and timely manner. Since the county sales tax program is fifteen years old, a formal review by LAB of DOR's administrative and automated policies is certainly warranted. For example, in June of this year, 53 Wisconsin counties received more than \$13 million in county sales tax revenue that DOR had previously underestimated due to new software that had caused problems in processing collections. Due to this automated problem, Milwaukee County received a payment of \$3.5 million in sales tax revenue that was owed to the County for sales tax collections in December 1999 and January 2000.

In addition, Milwaukee County and other counties that have implemented a sales tax have historically supported lowering the amount of sales tax retained by DOR for costs associated with the administration of the tax. The State's 1999-2001 biennial budget increased the amount of county sales tax retained by DOR from 1.5% to 1.75%, even though DOR's fiscal analysis indicated their actual administrative costs were approximately 1.3%. DOR, however, argued that the percentage increase included in the



Page Two  
Senator George  
Representative Kelso  
Members of the Legislative Audit Committee

State budget was needed in order for DOR to incorporate the county sales tax system into the State's integrated tax system. Since counties believe that they are providing enough revenue to fund the State's expenses for administering the county sales tax, including the costs related to the integrated tax system, this would appear to be an opportune time for an independent review of DOR's actual costs in this area.

In closing, while Milwaukee County will continue to work with DOR to address concerns with regard to the county sales tax program, we again urge members to support an audit of this program by LAB.

Thank you for considering our comments.



State of Wisconsin \ LEGISLATIVE AUDIT BUREAU

JANICE MUELLER  
STATE AUDITOR

22 E. MIFFLIN ST., STE. 500  
MADISON, WISCONSIN 53703  
(608) 266-2818  
FAX (608) 267-0410  
Leg.Audit.Info@legis.state.wi.us

DATE: August 28, 2000

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 Department of Revenue's County Sales Tax Administration—  
Background Information

At your request, we have gathered some background information the Joint Legislative Audit Committee may find useful in considering a request from the Wisconsin Counties Association (WCA) for an audit of the Department of Revenue's administration of the county sales tax. The WCA has questioned whether the amount of tax retained by the State for administration of the tax exceeds actual administration costs, and whether counties are receiving their full sales tax revenue.

The Department of Revenue currently administers a 0.5 percent county sales tax which is "piggybacked" on the state sales tax. In 1999, the 53 counties that have established a county sales tax received an estimated \$191 million in revenue. To pay for administrative costs, the Department has traditionally retained a portion of the sales tax revenue. Prior to the current biennium, the Department retained 1.5 percent of collections; Wisconsin 1999 Act 9 increased that amount to 1.75 percent of collections to fund a portion of the cost of incorporating the county sales tax system into the Department's new integrated tax system.

Since 1992, the amount the Department has retained from collections has exceeded administrative expenses. The 1995-97 and the 1997-99 biennial budgets contained provisions, which were subsequently vetoed, to reduce the amount retained from 1.5 percent to 1.3 percent of collections. The 1997-99 biennial budget contained a provision which requires the unencumbered fiscal year-end balance in the county sales tax administration appropriation to be lapsed to the general fund. At the time of the passage of the 1999-01 biennial budget, the Legislative Fiscal Bureau estimated the lapse would be \$760,000 in 1999-00 and \$882,200 in 2000-01. More recently, Department staff have estimated the 1999-00 lapse to be approximately \$931,000.

Counties have also expressed concern over the promptness and accuracy of the Department of Revenue's payments to the counties after taxes have been collected. The longer the period between the receipt of the taxes by the State and the payments to the counties, the less interest

counties can earn on their funds. In addition, in June 2000, the Department notified counties that due to an error, some collections from January 2000 had not been paid to the counties on the normal schedule but were instead made in a special distribution in June 2000.

An evaluation of the Department of Revenue's administration of the county sales tax could include:

- a review of the amount and types of administrative costs the Department charges to the program, including the costs for a portion of the integrated tax system;
- a determination of how promptly payments are made to the counties; and
- a review of the steps the Department has made to ensure the accuracy of payments.

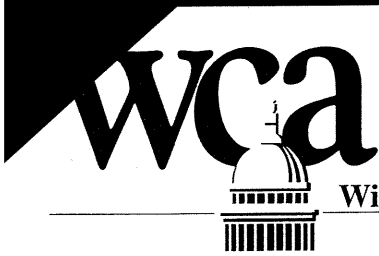
If you have any additional questions regarding this request, please contact me.

JM/cm

cc:	Senator Judith Robson	Representative Stephen Nass
	Senator Brian Burke	Representative John Gard
	Senator Peggy Rosenzweig	Representative Bob Ziegelbauer
	Senator Mary Lazich	Representative David Cullen

Cate Zeuske, Secretary  
Department of Revenue

Mark Rogacki, Executive Director  
Wisconsin Counties Association



Wisconsin Counties Association

**T0:** Members of the Joint Committee on Audit  
**FROM:** Allison Kujawa, <sup>AK</sup>Legislative Associate  
**DATE:** August 31, 2000  
**RE:** Audit of County Sales Tax Administration

On behalf of the Wisconsin Counties Association (WCA) I would like to request that the Joint Committee on Audit direct the Legislative Audit Bureau to conduct an audit of the Wisconsin Department of Revenue's county sales tax administration.

The Wisconsin Department of Revenue currently administers the county sales tax and charges a processing fee to counties. The administrative fee is intended to cover the Department of Revenue's costs directly associated with administering the counties' portion of sales tax collection.

In 1997, the Department of Revenue estimated that administering the counties' sales tax cost 1.3% of the total county sales tax collected. At that time, WCA advocated that the sales tax administration fee be reduced from 1.5% to more accurately reflect the true administrative cost.

In the last biennial budget, however, the Governor instead increased the administrative fee to 1.75%, to cover the costs of new computer software that will assist the Department of Revenue in administering the county sales tax.

In addition, the Wisconsin Department of Revenue recently underpaid 53 counties (all the counties with a sale tax) more than 13 million dollars in county sales tax revenue. This drastic underestimation on behalf of the Department of Revenue has caused great concern to numerous counties throughout the state.

WCA requests that an audit be conducted of the process associated with the collection and distribution of the county sales tax. WCA requests the Joint Committee on Audit investigate the following items:

1. How much is the Department of Revenue's new integrated tax system going to cost, and what portion of the cost for that system is appropriate for counties with a sales tax to pay?
2. What are the costs to the Department of Revenue that are associated directly to the collected county sales tax? Can that be broken down to a percentage administrative fee?

100 River Place, Suite 101 ♦ Monona, Wisconsin 53716 ♦ 608/224-5330 ♦ 800/922-1993 ♦ Fax 608/224-5325

Mark M. Rogacki, Executive Director

Mark D. O'Connell, Chief of Staff  
Craig M. Thompson, Legislative Director

Darla M. Hium, Deputy Director  
Lynda L. Bradstreet, Administrative Director

3. Are counties currently receiving all their sales tax revenues in a timely manner? Is the Department of Revenue receiving any interest on the county sales tax dollars and if so, are those revenues being applied to reduce the administrative fee for county sales tax collection?

I'm certain that a thorough audit of the administration and distribution of the county sales tax will mitigate the concerns of county officials throughout the state.

Thank you for considering our comments. If you have any questions please do not hesitate to contact me at the WCA office at 1-800-922-1993.



# State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718 • <http://www.dor.state.wi.us>

*Tommy G. Thompson*  
Governor

*Cate Zeuske*  
Secretary of Revenue

DATE: August 31, 2000

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

FROM: Cate Zeuske  
Secretary of Revenue

SUBJECT: Audit Request Concerning County Sales Tax Administration

Thank you for the opportunity to comment on the request from the Wisconsin Counties Association (WCA) for an audit of the Department of Revenue's administration of the county sales tax.

The request was prompted in part by a June 2000 special distribution of county sales tax revenues for collections from January of this year. The department has identified the problems that led to the need for a special distribution and made improvements in our procedures to insure that sales tax distributions are accurate and timely. Both automatic and manual safeguards are in place providing the type of assurance the counties are seeking. It is important to note that chapter 77.76 (3) of the statutes requires the distribution of funds to the counties by the end of the third month following the end of the calendar quarter in which the amounts were reported. Our June distribution of the funds collected in January still met the statutory requirement.

But as the counties know, we have worked with them as partners to improve the processing of returns and the distribution of county sales tax revenues and that has allowed us to go beyond the requirements of the statute. For several years, we have been making monthly distributions, most often within three to six weeks of the time the collections are reported to us. We have modified our processes to insure that registrants with the largest tax liability are included as quickly as possible in the monthly distributions. These changes have not only provided revenues faster, but also in a more stable manner to address concerns about fluctuations in the distributions. In addition, counties receive the amount of collections reported to the department, not the amount actually collected. When funds are not remitted to the state, the state pursues delinquent collection action and may or may not receive these funds. The counties get those funds regardless of the state's recovery. The current estimate of delinquent county sales taxes exceeds \$1.4 million.

Senator Gary R. George and  
Representative Carol Kelso, Co-Chairpersons  
Joint Legislative Audit Committee  
Page 2

The audit request also expresses concern about the costs of administering the county sales tax. The department is committed to improving our customer service and is engaged in a multi-year, multi-million dollar redesign of our computer systems to integrate thirty different tax systems. We call it OpenDOR because it will offer tax assistance 24 hours a day, seven days a week. As you know, a portion of the county sales tax funds are dedicated to the integrated tax system and those funds are being used to assist in the design of a system that will be of benefit to the counties. Among the improvements that are planned or already in place are Internet filing of sales tax returns, scanning of returns to speed processing, increased numbers of registrants and ultimately increased revenues for the counties.

The department began Phase 2 of the integrated tax system in July. This phase is the actual design, development and construction of the first release of the system. The sales and use tax will be the focus of this first release and is scheduled for implementation early in 2002. We are currently undertaking a gap analysis to determine the needs and requirements and we have asked the Audit Bureau to assist in that review. In addition, we will be contacting representatives of our shareholders including the counties and trade associations to solicit their input.

We recognize the ongoing concerns about the level of funding returned to the counties and their interest in seeing that administrative costs are closely monitored. The Department has a documented history of living within its statutorily authorized budget and we are committed to doing so in the future as well. We believe that we are efficiently administering collection of the county sales tax and will continue this effort through improvements such as the integrated tax project.

*END*



*END*



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# ENFORCEMENT OF PREVAILING WAGE LAWS

Legislative Audit Bureau

August 31, 2000

# Enforcement Responsibility

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- ◆ DWD is responsible for state and local public works projects
- ◆ DOT is responsible for state highway projects
- ◆ 9 local governments--local ordinances

# Establishing Prevailing Wage Rates

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- ◆ Contractors agree rates are accurate
- ◆ Efficiencies can be gained by:
  - more electronic filings of surveys--use of computer disks and the internet;
  - use clerical staff for accuracy reviews;
  - use sampling techniques for error detection

# DWD Investigations Completed in 1998

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Substantiated	94
Unsubstantiated	18
Withdrawn	<u>4</u>
Total	116

# DWD Investigations Completed in 1998

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<u>Days to Complete</u>	<u>Cases</u>
0-180 days	31%
180-360 days	41%
More than 360 days	<u>28%</u>
	100%

# Debarment of Contractors

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	<u>DWD</u>	<u>(years)</u>	<u>DOT</u>
1994	4	3.0	0
1995	4	2.6	0
1996	3	1.5	0
1997	4	1.5	0
1998	0		0
1999	0		0

# New Penalty Options

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- ◆ assess interest payments on wages owed
- ◆ clarify statutory language on liquidated damages
- ◆ debar repeat violators

# Wisconsin State AFL-CIO



CHARTERED 1958

6333 W. BLUE MOUND RD., MILWAUKEE, WISCONSIN 53213    PHONE (414) 771-0700    FAX (414) 771-1715

David Newby, President • Sara J. Rogers, Exec. Vice President • Phillip L. Neuenfeldt, Secretary-Treasurer

August 31, 2000

To:            Members of the Joint Legislative Audit Committee

From:         Philip Neuenfeldt, Secretary-Treasurer  
                  Nancy Hoffmann, Building Trades Representative  
                  Wisconsin State AFL-CIO

Re:            Comments on Audit #00-4 Enforcement of Prevailing Wage Laws

Members of the Committee,

On behalf of the Wisconsin State AFL-CIO and the over 130 affiliated building trades unions in Wisconsin, I offer comments on the Audit Report.

The audit correctly identified areas of concern for contractors and workers in the administration of prevailing wage laws in our state. We agree with the report's recommendations to DWD to broaden and clarify penalty options and to adopt a routine program of compliance monitoring. We believe, though that the audit recommendations could more fully promote partnering with the private sector and utilizing existing resources. Specifically, as it relates to DWD's determination of wage rates and compliance enforcement, both of which would increase effective program management.

The annual wage survey to determine rates has evolved over the years to a laborious process for both the Department and contractors who participate. The report notes that other midwestern states rely on bargaining agreements for wage surveys. A more detailed explanation of the process would reveal states use rates from agreements in conjunction with work hours in a given geographic location based on jointly administered benefit fund data. This explanation would likely lead to a conclusion that the use of existing and accessible resources from the private sector would dramatically increase the pool of data and increase the



level of accuracy for the majority of submitted survey information. In Wisconsin, DWD has on file the current bargained agreement for each craft, in all counties. What has not been considered in the report is that using agreements in coordination with fund data (that is already audited by the US Department of Labor) would most accurately reflect the concentration of workers and the wage rates in given counties. We suggest that a survey process that utilizes these existing systems will do three things.

1. Increase the data pool for a more accurate representation of the prevailing conditions statewide,
2. relieve contractors from duplicative reporting, and
3. provide accurate, easily verifiable, and audited information

We suggest this industry-accepted survey process be more fully explored and considered as an alternative to the resource-consuming process presently used in the Department.

The report made an excellent case in support of a recognized process to monitor compliance with prevailing wage laws in Wisconsin--the review of contractor payroll records. It was noted that DOT, Madison, Green Bay and Milwaukee use this process to monitor compliance, which helps them stem violations and subsequent complaints, effectively reducing the resources devoted to complaint investigation. In addition to reducing the time invested in complaint investigation, the report concludes that requiring payroll submittal would increase compliance. We feel the report could have quantified resource savings and expanded its recommendation to include the submittal of payroll documents for all projects subject to monitoring by DWD. Payroll submittal is customary in the construction industry and would result in benefits to both the employer and employee engaged in prevailing wage work in Wisconsin. We propose that DWD seriously consider expanding their response to this recommendation.

We believe the desired operating efficiencies will result from implementation of the above recommendations. A reduction of the 70% staff allocation to the survey process, coupled with relief from complaint investigation would bolster the consistent performance of the Department in all facets of administering the prevailing wage laws.

We thank the Committee for consideration of our comments.

Tommy G. Thompson  
Governor

Linda Stewart, Ph.D.  
Secretary



State of Wisconsin

Department of Workforce Development

OFFICE OF THE SECRETARY  
201 East Washington Avenue  
P.O. Box 7946  
Madison, WI 53707-7946  
Telephone: (608) 266-7552  
Fax: (608) 266-1784  
<http://www.dwd.state.wi.us/>  
e-mail: [DWDSEC@dwd.state.wi.us](mailto:DWDSEC@dwd.state.wi.us)

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TESTIMONY  
JOINT COMMITTEE ON AUDIT  
ENFORCEMENT OF PREVAILING WAGE LAWS

AUGUST 31, 2000

Representative Kelso, Senator George and Members of the Committee, thank you for the opportunity to comment on the Legislative Audit Bureau's report on the Enforcement of Prevailing Wage Laws in Wisconsin. My name is Orlando Canto. I am the Deputy Secretary of the Department of Workforce Development. With me today is Sheehan Donoghue, Administrator of the Equal Rights Division.

We appreciate the thorough review of the Department's administration of the Prevailing Wage laws by the Legislative Audit Bureau. In addition to our response contained in the audit report, we have developed an action plan in response to LAB's recommendations. Copies of this plan have been provided to you and Sheehan will discuss the details of the plan in a few moments.

Wisconsin's Prevailing Wage laws are parallel to the federal Davis-Bacon Act. They are designed to ensure that individuals that perform work on public works projects in Wisconsin – both building and transportation projects – are paid comparable wages to what they would receive if the project was in the private sector.

Much of what was contained in the LAB audit report confirmed what we already knew. Some of the recommendations have already been implemented and some, for what we believe are good reasons, will not be acted on at this time. However, we have enjoyed good working relationships with all parties interested in the Prevailing Wage laws, including contractors, employees, labor organizations and the Assembly and Senate labor committees, and this open dialogue will ensure that issues relative to the laws are reviewed promptly and effectively.

Sheehan will now discuss the action plan and we would be happy to respond to any questions you may have after that.

Thank you.

## Equal Rights Division Implementation Plan for LAB Recommendations

There were a number of recommendations and suggestions for improvements in the audit done by the Legislative Audit Bureau on the Prevailing Wage Program in the Equal Rights division. This plan is designed to give us a vehicle to track progress on some of those recommendations, as well as to highlight actions that have already been taken.

1. **Recommendation:** More Strongly encourages contractors to submit their survey data on computer disks.

**Action:** Purchase Disk Program developed by construction unions and tailor it to Division needs. Cost \$10,000.00.

Decision to purchase the disk program is in lieu of spending at least \$15,700.00 to develop a disk program internally.

2. **Recommendation:** Continue efforts to make survey information available on the Internet and allow contractors to file survey information via the Internet.

**Action:** The Department has placed survey information on the Internet as well as the Instructions for filling out the survey.

We have placed the Active survey list on the Internet so anyone can look at it to see what Employers have reported. The data is listed by project on the Internet.

**Please Note:** We are NOT moving forward at this time on the recommendation that we develop a system to allow the contractors to file their data via the Internet. We continue to have serious reservations about the security of the data that would be submitted via the Internet. In addition, we are concerned about the cost of developing a system large enough to handle the volume of data that normally comes in from the large contractors filing with us. If we were to have two large employers such as Findorff and JP Cullen, send their data in over the Internet at the same time, we could very well crash our system.

We have committed ourselves to revisit this question two years from now. For now, we are going to continue to mail the individual contractors their survey booklets with their number identifier on it, for completion and filing with the Department.

3. **Recommendation:** Train clerical staff to check surveys for accuracy.

**Action:** Hire one additional LTE for to clean and input data into the system. This person will be trained to catch the mistakes before the clerical staff

enters the data. This is done. The LTE's have also received additional training to help them catch errors missed during the review.

4. **Recommendation:** Review completed Surveys on a sample basis: The department indicated in its response to the audit, that the integrity of our survey process demands that we make every effort to ensure the accuracy of our data. If we were to review the completed surveys on only a sample basis, we would have so many errors in our data that it would destroy the credibility of the survey. It is not cost effective for us to go back in and make numerous recalculations of the rates because incorrect data was not caught before entry.

**Action:** We will review this decision again in two to three years, after we have had an opportunity to work out any additional bugs in the survey system. Additional time will also allow both ourselves and the contractors to progress far enough in the development of computer disks that we may be able to eliminate many of the more common errors that are now made.

5. **Recommendation:** Legislature should broaden and clarify penalty options available to DWD and DOT to deal with penalty options

**Action:** The Department supports the recommendation to clarify the legislative intent of penalty provisions in Chapter 109 and Section 66.293(11)(a) of Wisconsin Statutes. We would like to see that a year or two pass before we go in again on the prevailing wage legislation. We believe that the spring of 2002 would be an appropriate time to review and discuss the feasibility of using focus groups to again study the prevailing wage laws. The Department section and the penalty provisions should be allowed to work under the new system for a year or two more before rush to change them.

6. **Recommendation:** Adopt a program of routine monitoring of contractor's compliance.

**Action:** On August 3<sup>rd</sup>, the Department completed its plan to monitor the payrolls of those contractors who have been found in violation of the Prevailing wage laws in the last two years. Late the week of August 23, 2000, or Monday, the 28<sup>th</sup> of August, 00, the first letters went out requesting copies of the payrolls from companies we will be monitoring for compliance. We do not believe we will need additional positions to accomplish this monitoring function. In the meantime, we will continue the monitoring function to see how our changes are working and whether the contractors are now in compliance.

# WISCONSIN LABORERS' DISTRICT COUNCIL

AFFILIATED WITH A.F.L.-C.I.O.  
LABORERS' INTERNATIONAL UNION OF NORTH AMERICA  
2801 COHO STREET, SUITE 202 • MADISON, WISCONSIN 53713  
PHONE (608) 274-5757 • FAX (608) 274-5707 — (800) 782-4634

MICHAEL R. RYAN  
PRESIDENT/  
BUSINESS MANAGER

THOMAS E. FISHER  
SEC'Y-TREAS.  
REC. SEC'Y

AARON G. COUILLARD  
VICE-PRESIDENT

*Date:* September 5, 2000  
*To:* Members of the Joint Audit Committee  
*From:* Mike Ryan, President/Business Manager  
*Re:* Comments made before the committee regarding Audit #00-4  
Enforcement of Prevailing Wage Laws

On August 31, I appeared before the committee to comment on the Legislative Audit Bureau's Audit of the state's Department of Workforce Development and Department of Transportation enforcement of prevailing wage law. At the committee's Co-Chair's request, I am submitting the following summary of my remarks for the record.

In general, we agree with the findings of the audit. We feel it identifies many of the problems we have experienced over the years as we have represented our members or assisted other workers and contractors with enforcement/compliance issues.

For example, it has been our sense for some time that the Department of Workforce Development lacks the resources to effectively administer this law. We believe that the audit confirms this by documenting the tremendous and unacceptably long delay between the filing and resolution of claims.

It has been our sense that the law offers little in the way of deterring contractors from violating the law. We believe that the audit clearly documents the pattern of the department of not penalizing or debarring contractors despite the severity or willfulness of the violation.

It has also been our sense that certain administrative procedures adopted by the department have not recognized, or taken advantage of, mechanisms already in place in the industry, that may provide a more accurate and efficient means of collecting prevailing wage survey data. We believe the audit rightly documents the need to ease contractor reporting.

But, while we agree that the audit identifies many of the Departments' problems, we feel the recommendations offered by LAB fall short of fully addressing these issues.

For example, we agree with LAB recommendation to ease contractor reporting. Making better use of available technology is a worthwhile suggestion. In fact, we have already developed a computer program that automates the reporting process for our signatory contractors in an effort to facilitate their participation in the survey. But, while we believe this program has contributed to a steady rise in the number of signatory contractors completing the survey, the problem remains for them one of time and resources.

This is the busiest time of the year for construction and it is very difficult for contractors to complete surveys. Whether one is using the internet, a computer program or filing the survey out by hand, the question still remains, "can I afford to complete the survey, or not?"

During the last survey period, contractors signatory with the Laborers reported over 9 million hours of work in Wisconsin. These same contractors reported slightly less than 3 million of those hours on the prevailing wage survey. During the current reporting period of June 1, 1999 – May 31, 2000, signatory contractors with the Laborers reported over 9.6 million hours. It remains to be seen how many of these hours will be reported back to the state.

I mention this because if we are serious about easing the reporting burden on contractors we shouldn't focus on better using new technology, we should focus on better using the information they already report.

We must find a way to allow third party "Jointly Administered" benefit funds to report work under the survey. These funds already collect wage and hour data on all hours worked directly from the contractor. These benefit funds must comply with strict federal regulations and are routinely audited. These are hours worked under a collective bargaining agreement that include specific wage and fringe rates. The state already collects labor agreements for the purposes of administering prevailing wage law and only recognizes those agreements it has on file.

Federal Davis-Bacon law recognizes how time consuming reporting is on employers and allows for third parties to submit survey data. In those instances where wages and hours are not only reported and verifiable, but also governed by existing employment law, the state should make for similar allowances.

The audit also raised the issue of preventive enforcement. LAB noted that DOT collected and reviewed contractor payroll records in an effort to identify problems early, but stopped short of recommending that DWD institute a similar program. They instead recommended DWD collect certified payrolls from only those contractors found in violation of law.

While positive, it is nevertheless a step taken after-the-fact, and does nothing to address the significant time delay identified in the audit between the filing and resolution of a claim. As importantly, given the fact the measure is implemented after a violation is determined, it is hardly a deterrent.

For years we have recommended the collection of payroll records from all contractors performing work under state prevailing wage law for the very purpose of deterring contractors from willfully violating the law and to help identify mistakes before they become severe.

The Department has opposed the collection of these records primarily because it lacks the staff to review and space to store the records. We, on the other hand, feel the creation of such a clearing-house will enhance the Department's ability to administer the law, given its limited resources, by providing individual workers and other third parties access to payroll records to more fully determine if filing a formal complaint is even warranted.

In the very least, LAB should have recommended a clarification in the statutes of a process DWD already encourages individuals and third parties to follow as a primary step in determining prevailing wage compliance – and that is, to access and inspect payroll records under the state’s open records law, to better determine if, and to what extent, a violation has occurred before filing a formal complaint with the department.

Thank you, again, for this opportunity to comment on the enforcement of prevailing wage laws audit.



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Wisconsin Department of Transportation  
Office of General Counsel

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MEMORANDUM

**To:** Joint Legislative Audit Committee

**From:** Allyn Lepeska *AL*

**Date:** August 31, 2000

**Subject:** Legislative Audit Bureau (LAB) Report 00-04, "Enforcement of Prevailing Wage Laws" written comments for presentation on August 31, 2000

Thank you for allowing me to speak this morning. I am an attorney with the Wisconsin Department of Transportation. My duties include enforcement of prevailing wage laws. I am speaking for information purposes only and will respond to any questions.

The Department does work with the Department of Workforce Development, the contractors and the workers to enforce the prevailing wage laws. The prevailing wage laws provide a minimum wage rate for trades and occupations that are commonly employed by contractors doing state construction projects.

Although the Audit Summary is technically correct in stating that statutory penalties options are seldom invoked, the threat of the penalties and the use of related remedies are effective tools that the Department uses to ensure compliance. Since 1994, the Department did send out several Notices to Debar (Suspend) to contractors with unresolved prevailing wage issues to successfully resolve the wage issues. Under WisDOT rules, a contractor may not be awarded any contracts or have any subcontracts approved pending the debarment (suspension) action. Rule Trans 504.05(5) and 504.06, W.A.C. In other words, a contractor may not be debarred, but the contractor may not be able to bid on state projects pending an unresolved prevailing wage issue.

WisDOT may also withhold payment to the contractor on the project if there are unresolved prevailing wage issues. The payments are withheld from the prime contractor even if the prevailing wage issues are with a subcontractor. WisDOT specifications require the prime contractor to assure the prevailing wage laws are followed. If a prime contractor is not being paid because its subcontractor is not following prevailing wage laws, the prime contractor usually can resolve the prevailing wage issue.

In addition to prevailing wage staff assigned around the state, WisDOT project engineers on site have a general knowledge of prevailing wage laws. The project engineers are a known resource to the contractors and the workers and can answer prevailing wage questions before they become issues.

If you have questions, feel free to contact me.

pc: Don Bezurki / Gene Kussart / Marilyn Kuick



WISCONSIN STATE CONFERENCE

**International  
Electrical**



**Brotherhood  
Workers**

Affiliated with the AFL-CIO and All Central Bodies

TO: Members of the Joint Legislative Audit Committee  
FROM: Larry P. Reidenbach, President, IBEW State Conference  
DATE: September 28, 2000  
SUBJECT: COMMENTS ON AUDIT #00-4 ENFORCEMENT OF PREVAILING WAGE LAW

A handwritten signature in black ink, which appears to read "Larry Reidenbach".

Members of the Committee,

On behalf of the IBEW State Conference, I respectfully submit the following comments regarding the audit of Department of Workforce Development's (DWD) handling of prevailing wage laws.

We concur with the audit regarding the considerable time investment made by DWD to gather and compile wage data. It is our belief this process could be greatly streamlined by utilizing information gathered from joint labor management funds. We would also ask the DWD to consider on-line filing for the survey. Implementing these two changes should free up considerable staff time, which could be redirected to other areas of the prevailing wage law, which in our opinion need additional time invested.

We have major concerns with the current monitoring and compliance and would ask the DWD to consider monitoring more contractors through the use of certified weekly payroll records. This system is currently in use by the Department of Transportation and is an effective means of compliance. Employer's claims of privacy concerns are grossly overstated. We would counter that employer privacy concerns are nothing more than subterfuge to hide non-payment of prevailing wages. We also would urge the DWD to conduct on-site interviews to verify that prevailing wages are paid. It is our belief that on-site interviews, coupled with certified payroll, will alleviate the problems of improper classification at the time the project is underway and will reduce the time necessary to substantiate claims.

Individual employees require protection from the employers who violate the law under the "whistle blower protection statutes". Absent protection for those employees many affected employees will not come forward on their own. Additionally, strict application of penalties is needed. As the process operates currently, there is too much discretion on the part of DWD in

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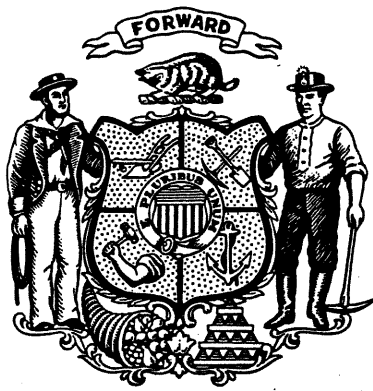
Members of the Joint Legislative  
Audit Committee  
September 28, 2000

terms of assessing penalties against contractors who repeatedly violate the law. Once violations are found little or no penalty is assessed in many cases. In some cases where a violation is found, employees have been encouraged to settle for less than what is actually owed to them. Lengthy time delays to complete an investigation also contribute to an atmosphere of little or no repercussions for non-compliance. These practices only encourage repeat violations. Therefore, we agree with the suggestions on page six of the Audit Report. Specifically, the legislature should consider requiring payment of interest for all violations and debarment for those employers with multiple violation of the prevailing wage law. The deterrent effect of penalties that are consistently and evenly applied is the only effective means of preventing repeat violations by contractors.

In conclusion, our organization concurs with many of the findings and suggestions found in the Audit. We are available to assist with comments and suggestions that will contribute to a revision and clarification of prevailing wage laws and benefit all the parties involved.

Thank you for your time and consideration.

END



END




State of Wisconsin \ LEGISLATIVE AUDIT BUREAU

JANICE MUELLER  
STATE AUDITOR

22 E. MIFFLIN ST., STE. 500  
MADISON, WISCONSIN 53703  
(608) 266-2818  
FAX (608) 267-0410  
Leg.Audit.Info@legis.state.wi.us

**DATE:** June 19, 2000

**TO:** Dan Rossmiller and Mary Jan Rosenak  
Committee Clerks to the Joint Legislative Audit Committee

**FROM:** Paul J. Stuibers   
Program Evaluation Director

**SUBJECT:** Audit Report 00-7: A Review of Hearing Officers in State Government

Enclosed is our review of the activities of hearing officers—also known as hearing examiners or administrative law judges—who are responsible for resolving contested cases. These cases are legal proceedings that address disputes in which individuals or parties believe they have been adversely affected by some state regulatory action, employment decision, or other type of action. Disputes involve a broad range of issues, such as denial of unemployment insurance or worker's compensation benefits; administrative suspensions of driver licenses for operating a motor vehicle while intoxicated; violations of probation and parole; and disciplinary proceedings against practitioners in a range of professions, such as social workers, doctors, dentists, and barbers. The audit was requested by Senator Dale Schultz, who was interested in the performance and productivity of hearing officers, as well as the adequacy of their supervision.

We found that in fiscal year 1998-99, the State spent an estimated \$17.3 million and employed 206.1 full-time equivalent employees—including 103.3 hearing officers—to hear approximately 24,900 contested cases. Two agencies—the Department of Workforce Development (DWD) and the Department of Administration's (DOA) Division of Hearings and Appeals—account for more than 80 percent of hearing-related staff and expenditures. The average cost to resolve contested cases ranged from \$54 in the Department of Transportation's Bureau of Field Services to resolve cases related to operating a motor vehicle while intoxicated, to \$2,990 in the Department of Regulation and Licensing to resolve cases related to disciplinary proceedings, suspensions, injunctions, and application denial reviews for professional license holders and applicants.

Agency efforts to establish and measure performance of hearing officers have been uneven. We identified a total of 97 performance standards related to hearing processes, most of which were established by state agencies to effectively manage their hearings. However, of the 97 standards, only 53 were actually measured to assess performance. The quality of hearing officer decisions is difficult to measure, but available statistics indicate that most hearing officer decisions are upheld. However, the highest reversal rate was for DWD's Worker's Compensation Division: between 1995 and 1998, 11.9 percent of its hearing officers' decisions that had been appealed were reversed, at least in part, by the Labor and Industry Review Commission.

The report includes two recommendations. We recommend that all state agencies conducting contested case hearings develop performance standards for their hearing officers and annually measure the extent to which hearing officers have complied with these standards. All agencies except the Department of Veterans Affairs and the Office of the Commissioner of Railroads have at least some standards applicable to hearing officers, although many agencies currently do not measure all the standards they have implemented.

The second recommendation is directed specifically to DWD, and involves improving the supervision of support staff who work out of their homes and for whom inadequate standards have been developed.

The report is scheduled to be released on Tuesday, June 20, at 2 p.m. If you have any additional questions, please contact Jan as I will be out of town on Monday.

PS/DV/bm

Enclosure

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# HEARING OFFICERS IN STATE GOVERNMENT

Legislative Audit Bureau

August 31, 2000

# Overview

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- ◆ The State employs 103 hearing officers
  - also known as hearing examiners and administrative law judges
- ◆ Disputes involve a broad range of issues, such as:
  - denial of unemployment insurance or worker's compensation benefits
  - suspension of drivers licenses for drunk driving
  - violations of probation and parole

# Expenditures

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- ◆ In FY 1998-99:
  - \$17.3 million spent on hearing functions
  - staff resolved 49,000 contested cases
  - 25,000 hearings were held
- ◆ DWD and DOA account for more than 80 percent of expenditures and staff



# Evaluating Performance

- ◆ Agency efforts to evaluate performance have been uneven
- ◆ Of the 97 standards developed:
  - 53 standards were measured
  - agencies met 72 percent of those measured
- ◆ Management and supervision of hearing officers could be improved
- ◆ Few decisions are overturned upon review

# Consolidating Responsibilities

- ◆ Since 1978, many hearing functions have been consolidated within DOA
- ◆ Additional consolidation is possible
- ◆ Such consolidation may not result in substantial benefits or cost savings

Tommy G. Thompson  
Governor

Linda Stewart, Ph.D.  
Secretary



State of Wisconsin

Department of Workforce Development

OFFICE OF THE SECRETARY  
201 East Washington Avenue  
P.O. Box 7946  
Madison, WI 53707-7946  
Telephone: (608) 266-7552  
Fax: (608) 266-1784  
<http://www.dwd.state.wi.us/>  
e-mail: [DWDSEC@dwd.state.wi.us](mailto:DWDSEC@dwd.state.wi.us)

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TESTIMONY  
JOINT COMMITTEE ON AUDIT  
HEARING OFFICERS IN STATE GOVERNMENT – LAB REPORT 00-7

AUGUST 31, 2000

Representative Kelso, Senator George and Members. Thank you for the opportunity to comment on the Legislative Audit Bureau's report on Hearing Officers in State Government. I am Orlando Canto, Deputy Secretary at the Department of Workforce Development.

The LAB did a very thorough review of the state's use of, supervision of, and evaluation of work by hearing officers. This Department is in agreement with the report's overall findings and conclusions. We very much appreciate this review and feedback from an independent perspective to ensure Wisconsin citizens are being afforded their due process rights.

As is stated in our response contained in the audit report, DWD employs 57 hearing officers to handle cases for the Equal Rights, Unemployment Insurance and Worker's Compensation programs. In response to the audit's recommendations, we will ensure that each hearing officer is evaluated at least once per year, as has been our policy. Also, these three divisions are currently in the process of developing appropriate measures of the performance standards we have in place for hearing officers to assist in the evaluation of the officers' work.

We would be happy to report to committee members upon the conclusion of this work as well as the additional items we identified in our audit response.

Thank you again for this opportunity. I would be happy to respond to any questions.