

STATE OF WISCONSIN
Senate Journal
Ninety–Sixth Regular Session

WEDNESDAY, April 28, 2004

The Chief Clerk makes the following entries dated **Friday, April 23, 2003**.

CHIEF CLERK’S ENTRIES

**State of Wisconsin
Office of the Governor**

April 22, 2004

To the Honorable, the Senate:

The following bill(s), originating in the Senate, have been approved, signed and deposited in the office of the Secretary of State:

<u>Bill Number</u>	<u>Act Number</u>	<u>Date Approved</u>
Senate Bill 17 (vetoed in part)	Wisconsin Act 309	April 22, 2004
Senate Bill 155	Wisconsin Act 311	April 22, 2004
Senate Bill 324	Wisconsin Act 312	April 22, 2004
Senate Bill 407	Wisconsin Act 313	April 22, 2004
Senate Bill 471	Wisconsin Act 314	April 22, 2004
Senate Bill 472	Wisconsin Act 315	April 22, 2004
Senate Bill 87	Wisconsin Act 317	April 22, 2004

Sincerely,

JIM DOYLE
Governor

**State of Wisconsin
Office of the Governor**

April 22, 2004

The Honorable, The Senate:

I have approved **Senate Bill 17** as [2003 Wisconsin Act 309](#) and have deposited it in the Office of the Secretary of State. I have vetoed Sections 1, 3 and 6. I have exercised partial vetoes in Sections 2, 4, 5, 7, 8, 9, 10, 11, 12 and 13.

Senate Bill 17 bill creates the Joint Committee on Court Judgments and Settlements to review and recommend who should receive awards resulting from certain court actions and creates a new investigations and prosecution appropriation under s. [20.455\(1\)\(gh\)](#), to receive ten percent of certain award amounts. The new appropriation is to be used for the investigation and prosecution of certain violations. The bill would require the Attorney General to notify the public when the Department of Justice, in a court action brought on behalf of the citizens of the state, wins a money judgment or settlement of \$100,000 or more, that includes court–ordered parameters for the use of the money, but does not make awards to particular persons. If the court judgment does not specify payments to particular persons or for specific purposes, the award will be

deposited into the state’s budget stabilization fund. A person wishing to receive a portion of an award subject to the committee’s review, must apply to the Department of Justice within sixty days after the Attorney General issues the notice of the award. The department is required to develop application forms, publicize the availability of awards, process grant applications and provide the new committee with the staff necessary to review and make determinations as to the merits of grant requests. The Joint Committee on Finance must approve all of the new committee’s recommendations.

I am vetoing Sections 1, 3 and 6 because they create an unnecessary and complicated review of court decisions and potentially increase state personnel costs, during a time in which the state needs to be exercising fiscal restraint. For example, the legislative review mechanism in the bill is needlessly cumbersome since it requires duplicative legislative involvement through both the legislative seats on the Joint Committee on Court Settlements and the Joint Committee on Finance.

I am partially vetoing Sections 2, 4, 5, 7, 8, 9, 10, 11, 12 and 13 to ensure that the Department of Justice receives the actual amount spent on investigation and prosecution of the specified violations, and not an arbitrary ten percent of court judgments. This way, the department will be fairly and adequately compensated for the actual costs it incurs on behalf of the state’s citizens.

Sincerely,

JIM DOYLE
Governor

**State of Wisconsin
Office of the Governor**

April 21, 2004

The Honorable, The Senate:

I am vetoing **Senate Bill 8**. The bill creates an exemption from the open records requirement for security system plans for utilities. These plans could relate to physical or electronic security of utility facilities, telecommunications or information technology systems. The exemption requires a determination that the facility or system is so vital to the state that the incapacity or destruction of the facility or system would have a debilitating impact on the physical or economic security of the state or on public health, safety or welfare.

I recognize that the state’s utility systems are vital to Wisconsin’s security and that the intent of this bill is to ensure that security. However, current law already provides for the protection of these records without creating another exemption to the Open Records Law. The Open Records Law anticipates the need for protection of certain records and provides for an exception based on a case–by–case determination of whether a record should be disclosed, a process commonly called the balancing test. Under the balancing test, if the public’s interest

in not disclosing the information outweighs the public's interest in disclosure, then release of the record is not required.

The public scrutiny of government action provided by the Open Records Law is vital to maintaining the integrity of state government. During a time when national, state and local resources are focused on maintaining public security, it remains equally imperative for a democratic society to safeguard access to public records so that the public's right to know and ability to evaluate the actions of its government is not unduly hindered. I object to setting another exemption of certain records when an alternate means of protection is already in place and functioning well. Access to these records should be subject to the balancing test on a case-by-case basis to ensure that the public interest is upheld.

Sincerely,

JIM DOYLE
Governor

**State of Wisconsin
Office of the Governor**

April 21, 2004

The Honorable, The Senate:

I am vetoing **Senate Bill 40**. The bill requires the Department of Transportation to designate and mark the portion of U.S. Highway 14 from Madison to the Wisconsin-Illinois border as the Ronald Reagan Highway.

I recognize that state highway and bridge designations have been used to pay tribute to and memorialize certain individuals. This bill, however, violates the precedent that this honor be bestowed only on Wisconsin-born citizens or state residents.

Sincerely,

JIM DOYLE
Governor

**State of Wisconsin
Office of the Governor**

April 21, 2004

The Honorable, The Senate:

I am vetoing Senate Bill 64. This bill repeals current law provisions that allow the Governor to request an extension for introducing the executive budget message and bill in January of the odd numbered years. It also removes such an option for the Building Commission in submitting its capital budget recommendations to the Joint Committee on Finance in April of the odd numbered year.

I am vetoing this bill because I object to the reduced amount of time that a Governor would have to ensure that increasingly complex budgets are balanced based on the best and most recent estimates of available revenues. The latest revenue estimates at the time of introduction of the Governor's budget, while not required by state statute, are routinely developed by the Legislative Fiscal Bureau in the last two weeks of January and are used as the basis for determining if a budget is in balance. To require that a budget be submitted within a few days of this information becoming available is unreasonable and sets the stage for unnecessary disagreement between the Governor and the Legislature.

While the limited focus of this bill leaves me no choice but a veto, I remain committed to improving the budget process. Together, the Legislature and I worked to complete the most recent budget on time and without a preponderance of nonfiscal policy items. I look forward to continued progress in improving the state's financial and budget management.

Sincerely,

JIM DOYLE

Governor

**State of Wisconsin
Office of the Governor**

April 21, 2004

The Honorable, The Senate:

I am vetoing **Senate Bill 218**. The bill makes numerous changes to the laws governing business corporations, limited partnerships, nonstock corporations and limited liability companies that include:

- Permitting a board of directors to decrease the number of shares of a class or series of stock, to eliminate the class or series, or to increase the number of shares of the class or series;
- Permitting a corporation's articles of incorporation or bylaws to specify the manner in which shareholder meetings will be conducted;
- Eliminating restrictions on certain committee actions including the authorization of distributions, filling board of director or committee vacancies, and amending articles of incorporation without shareholder action;
- Providing that a parent corporation may merge with or into one of its indirect wholly owned subsidiaries without approval of the shareholders under certain conditions;
- Changing certain practices relating to mergers, share exchanges and business combinations including filing requirements relating to articles of merger or share exchange, the determination of valuation dates and stock acquisition dates, and specification of voting power of any person owning greater than 20 percent of a corporation's stock;
- Generally permitting a board of directors to transfer any or all of its assets to one or more entities owned by the corporation;
- Allowing the abbreviation of the words "limited partnership"; and
- Deleting the requirement that, in the event of merger or conversion, title to real estate be transferred to the surviving entity by deed, which must be recorded in the appropriate office of the register of deeds.

I support improving the ability of boards of directors and their committees to act in today's rapidly changing economy. I also support streamlining and updating regulations governing shareholder notices, meetings, and articles of merger.

I am, however, vetoing this bill because it deletes the requirement to promptly record an instrument of conveyance with the appropriate register of deeds for certain mergers and conversions. This would make it more difficult for lien holders and other parties to identify actual owners of real estate. By deleting the recording requirement, the most recent information that is necessary for local-taxing authorities to calculate assessed values would be limited. This could create problems with the local assessment process and potentially distort the fair market value of real estate. It is important that lien holders, local assessors, and potential real estate purchasers have the tools that they need to determine real estate ownership and calculate assessment values.

Sincerely,

JIM DOYLE
Governor

**State of Wisconsin
Office of the Governor**

April 21, 2004

The Honorable, The Senate:

I am vetoing **Senate Bill 253**. This bill allows certain four-year institutions of the University of Wisconsin System to establish up to five independent charter schools across the state. Under current law, the University of Wisconsin – Milwaukee, the City of Milwaukee, the Milwaukee Area Technical College and the University of Wisconsin – Parkside may establish independent charter schools. All current independent charter schools must be located in the City of Milwaukee, except for the school established by UW–Parkside in Racine.

I am vetoing the bill because this expansion of the independent charter school program will dilute the program's goal of improving educational opportunities for students living in Milwaukee and Racine.

I am also vetoing the bill because it will drain state funds from existing public schools and increase property taxes. State payments to independent charter schools are funded by the reallocation of general school aids from the state's 426 school districts. The bill's expansion of the program reduces state resources for all existing public schools and diminishes the state's property tax relief efforts.

As I have indicated repeatedly to the Legislature, changes to the charter school program should be part of a broader effort to improve the education of all our children.

Sincerely,

JIM DOYLE
Governor

**State of Wisconsin
Office of the Governor**

April 21, 2004

The Honorable, The Senate:

I am vetoing **Senate Bill 322**. The bill changes the definition of a group health benefit plan in such a way that it will harm consumers. Under current law, a group health benefit plan is a plan that is sold to two or more employees of an employer or an individual policy sold to three or more employees of an employer. In both cases, numerous consumer protections apply. This bill would restrict this definition to only those health benefit plans that are funded or reimbursed in whole or in part by an employer on behalf of their employees.

Under this bill, many employees would be removed from small employer health insurance protections if employers currently do not, or in the future would not, reimburse or fund a portion of the employees' health plan. In either situation, these employees would no longer be covered by the protections currently available to small insurance plan participants, regardless of whether the employer made a contribution or reimbursement to the employee for costs associated with the insurance. These protections include:

- Continuation and conversion rights, which permit persons who leave the group to access group health insurance for up to 18 months. While the individual may be asked to pay the premiums for a continuation policy, coverage under these policies is generally less expensive and offer better benefits than individual coverage. Once the conversion period is ended, the individual must then be offered a conversion policy, which is individual coverage.
- Portability, which permits an individual with prior group coverage to move to their next group, or in some cases, to the state high-risk pool without serving a new pre-existing condition waiting period. Persons who do

not exercise their portability rights within 63 days of losing group coverage lose this right.

- Guarantee issue for small group coverage, meaning that the insurer must accept all members of a group without excluding pre-existing health conditions. In the individual market, each policy is underwritten and insurers are permitted to refuse coverage to those individuals who do not meet the insurer's underwriting standards or exclude coverage for pre-existing health conditions.
- Mandated benefits required for group plans, for example, benefits for mental health and AODA treatment, are not required for individual policies.
- Limits on the rates that can be charged to employers with small group health insurance policies that do not apply in the individual market.

When employees are removed from group coverage they would then be forced to look at individual plans, including the state HIRSP program, for their insurance needs. Individual plans are often less affordable than group coverage and many would be unable to afford these individual plans. The result would be an increase in the number of uninsured individuals in the state.

While the bill was originally developed as a way to decrease costs and improve access, it probably would have the opposite effect and result in higher costs and fewer insured individuals and families. Because I want to ensure that access to coverage is as broad as possible and that the consumer protections of small group insurance laws are available to as many people as possible, I am vetoing this bill.

Sincerely,

JIM DOYLE
Governor

**State of Wisconsin
Office of the Governor**

April 21, 2004

The Honorable, The Senate:

I am vetoing **Senate Bill 351**. The bill allows all counties, except Milwaukee and Menominee, to decrease the number of county board supervisors between federal decennial censuses, either by a board-initiated redistricting plan or by petition and referendum. Under current law, counties may change the number of county board members only once every ten years when a redistricting plan is adopted to conform to the federal decennial census. An exception to this rule was adopted under [2003 Wisconsin Act 32](#), whereby Milwaukee County may reduce its number of county supervisors once prior to November 15, 2010.

Senate Bill 351 prudently limits the downsizing of a county board through successful petition and referendum to once per decade. There is no limit, however, on the number of times a county board itself may adopt a redistricting plan that reduces the number of supervisors or the number of times a referendum question to downsize may appear on the ballot. The open-ended nature of these provisions may create circumstances where the cost, time and effort spent on redistricting far outweigh any savings or benefits obtained. Also, unlike the one-time authority granted to Milwaukee County, this bill provides ongoing authority into the future.

While I object to this bill because of its open-ended and ongoing authority, a more tailored bill could be developed which would accomplish the goals behind this piece of legislation.

Sincerely,

JIM DOYLE
Governor

**State of Wisconsin
Office of the Governor**

April 21, 2004

The Honorable, The Senate:

I am vetoing **Senate Bill 484**. This bill requires any contract under Medical Assistance for prepaid health benefits be made on an actuarially sound basis consistent with federal law. The bill specifies that this requirement is applicable to contracts issued or renewed on the effective date of the bill. I object to this bill because it is unnecessary and duplicative.

Prepaid health benefits, often provided by health maintenance organizations (HMOs), are a critical component of the effort to ensure high quality health care for Medical Assistance and BadgerCare recipients. HMOs, through prepaid health benefit plans, provide service to Medical Assistance recipients at a discount compared to service purchased on a fee-for-service basis. Current federal law requires the state to propose rates to the HMOs that are actuarially sound. This is a condition the state must meet to qualify for federal Medicaid funding. It is unlikely that the state would ever enter into contracts with prepaid health plans if those contracts did not qualify for federal Medicaid funds. Furthermore, the provisions could create confusion in the future regarding contract negotiations between the state and prepaid health plan providers if federal laws were to change, but corresponding changes to state law were not enacted.

Sincerely,
JIM DOYLE
Governor

The Chief Clerk makes the following entries under the above date.

PETITIONS AND COMMUNICATIONS

**State of Wisconsin
Office of the Secretary of State**

To the Honorable, the Senate:

<u>Bill, Joint Resolution or Resolution Number</u>	<u>Act Number or Enrolled Number</u>	<u>Publication Date</u>
Senate Bill 3	Wisconsin Act 297	May 4, 2004
Senate Bill 75	Wisconsin Act 298	May 4, 2004
Senate Bill 380	Wisconsin Act 299	May 4, 2004
Senate Bill 399	Wisconsin Act 300	May 4, 2004
Senate Bill 401	Wisconsin Act 301	May 4, 2004
Senate Bill 446	Wisconsin Act 302	May 4, 2004
Senate Bill 489	Wisconsin Act 303	May 4, 2004
Senate Bill 504	Wisconsin Act 304	May 4, 2004
Senate Bill 526	Wisconsin Act 305	May 4, 2004

Sincerely,
DOUGLAS LA FOLLETTE
Secretary of State

**State of Wisconsin
Office of the Secretary of State**

To the Honorable, the Senate:

<u>Bill, Joint Resolution or Resolution Number</u>	<u>Act Number or Enrolled Number</u>	<u>Publication Date</u>
Senate Bill 17 (Vetoed in part)	Wisconsin Act 309	May 6, 2004

Senate Bill 155	Wisconsin Act 311	May 6, 2004
Senate Bill 324	Wisconsin Act 312	May 6, 2004
Senate Bill 407	Wisconsin Act 313	May 6, 2004
Senate Bill 471	Wisconsin Act 314	May 6, 2004
Senate Bill 472	Wisconsin Act 315	May 6, 2004
Senate Bill 87	Wisconsin Act 317	May 6, 2004

Sincerely,
DOUGLAS LA FOLLETTE
Secretary of State

**State of Wisconsin
Department of Revenue**

April 26, 2004

The Honorable, The Legislature:

I am submitting the quarterly report of the Wisconsin Lottery for the quarter ending March 31, 2004. As required by s. [565.37\(3\)](#), Wis. Stats., the attached materials contain unaudited Wisconsin Lottery year to date Sales and Expenditure information.

Revenues for the quarter were \$116.2 million, a \$10.7 million increase for the same quarter last year.

The information reported here is a summary and is not intended to be a complete financial accounting of Wisconsin Lottery operations.

If you have any questions or comments regarding this report, please feel free to contact me at (608) 266-6466.

Sincerely,
MICHAEL L. MORGAN
Secretary of Revenue

**State of Wisconsin
Investment Board**

April 20, 2004

The Honorable, The Legislature:

Pursuant to ss. [25.17\(14r\)](#), Stats., I have attached a revised copy of SWIB's Investment Guidelines plus a "red-lined" copy that shows the amendments that the Board of Trustees recently made.

Our March 31, 2004 Investment Goals, Strategies and Performance Report that you recently received provides a more detailed discussion of the strategy and investment changes that are being implemented under the guidelines. Please contact me if you have any questions or comments.

Sincerely,
DAVID C. MILLS
Executive Director

ADVICE AND CONSENT OF THE SENATE

**State of Wisconsin
Office of the Governor**

April 21, 2004

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint CLARK, MARY ANN, of Cumberland, as a member of the Nursing Home Administrator Examining Board, to serve for the term ending July 1, 2005.

Sincerely,
JIM DOYLE
Governor

Read and referred to committee on **Health, Children, Families, Aging and Long Term Care**.

**State of Wisconsin
Office of the Governor**

April 21, 2004

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint KINNEY, MAUREEN L., of La Crosse, as a member of the Wisconsin Waterways Commission, to serve for the term ending March 1, 2009.

Sincerely,

JIM DOYLE

Governor

Read and referred to committee on **Environment and Natural Resources.**

**State of Wisconsin
Office of the Governor**

April 19, 2004

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint KNAUS, JEFFREY, of Kaukauna, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2007.

Sincerely,

JIM DOYLE

Governor

Read and referred to committee on **Economic Development, Job Creation and Housing.**

**State of Wisconsin
Office of the Governor**

April 19, 2004

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint JORDAN, VIRGINIA, of Eau Claire, as a member of the Dietitians Affiliated Credentialing Board, to serve for the term ending July 1, 2007.

Sincerely,

JIM DOYLE

Governor

Read and referred to committee on **Health, Children, Families, Aging and Long Term Care.**

**REFERRALS AND RECEIPT OF
COMMITTEE REPORTS CONCERNING
PROPOSED ADMINISTRATIVE RULES**

Senate Clearinghouse Rule 03-112

Relating to commencement of a school term.

Submitted by Department of Public Instruction.

Report received from Agency, April 23, 2004.

Referred to committee on **Education, Ethics and Elections**, April 28, 2004.

**LEGISLATIVE REFERENCE BUREAU
CORRECTIONS**

CORRECTIONS IN:

2003 SENATE RESOLUTION 3

Prepared by the Legislative Reference Bureau

(March 3, 2003)

1. Page 31, line 15: delete "have" and substitute "have has".

2. Page 33, line 3: delete "be" and substitute "be".

CORRECTIONS IN:

2003 SENATE BILL 564

Prepared by the Legislative Reference Bureau

(April 23, 2004)

1. Page 44, line 11: after "takes effect on" insert "the first day of".