

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

*Joint Committee for
Review of
Administrative Rules
(JCR-AR)*

Sample:

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

- Appointments ... Appt
-
- Clearinghouse Rules ... CRule
-
- Committee Hearings ... CH
-
- Committee Reports ... CR
-
- Executive Sessions ... ES
-
- Hearing Records ... HR
-
- Miscellaneous ... Misc
- 97hr_JCR-AR_Misc_pt21a
- Record of Comm. Proceedings ... RCP
-

JCRAR - 1/30/98

Glenn Grothman

STATE REPRESENTATIVE
59TH ASSEMBLY DISTRICT

- For your information
- In response to your request
- Please comment after you have reviewed these materials.

FOR YOUR
RECORDS

Room 125 West, State Capitol
Post Office Box 8952
Madison, Wisconsin 53708

Office: (608) 264-8486
Home: (414) 338-8061

(2) When the department has determined, due to an impending enforcement action, that it will not process after the fact permits or approvals.

(3) The time limits specified in s. NR 300.04 do not include the number of business days between either:

(a) The date a decision is made by the department to prepare an EIS and the date a final determination is made that the department has complied with s. 1.11, Stats.;

(b) The date a request is made to an applicant for additional information necessary for the department to issue a decision under the applicable statute and the date that information is received by the department;

(c) The date a class 1 legal notice is mailed by the department and the date the department receives satisfactory proof of publication of that notice from the applicant; or

(d) November 1 of any calendar year and April 1 of the succeeding calendar year for applications received after October 1 where a field investigation is required before the department has adequate information to make a decision.

(4) When the department determines pursuant to ch. NR 150 that an EA is required for compliance with s. 1.11, Stats., the time limits specified in s. NR 300.04 shall be increased by 60 business days.

(5) If the department's action on a requested permit or approval is delayed or prevented by an order or decision of a court of law, the time limit specified in s. NR 300.04 shall be adjusted to conform to the court's decision or order.

(6) If the department's action on a requested permit or approval is delayed or prevented by the action or failure to act of an agency or private party other than the department or the applicant, the time limit specified in s. NR 300.04 shall be adjusted accordingly.

NR 300.06 Fee processing (1) FEE REQUIREMENT. The department shall charge a fee for permits or approvals. The permit or approval fee shall accompany the permit application or request for approval. Projects funded in whole or in part by any federal agency or state agency or any permits issued under s. 30.12(3)(a)2., 2m. or 3., Stats., are exempt from fees. Except for federal or state agency dam projects, any construction, alteration, change in operation, transfer, or abandonment of a dam requires a fee pursuant to s. 31.39(3), Stats.

(2) **BASIC FEES.** For fees charged for permits and approvals under ss. 30.10 to 30.205 and 30.21 to 30.27, 31.02 to 31.185, 31.33 to 31.38, and 281.22, Stats., the department shall classify the types of permits and approvals based on the estimated time spent by the department in reviewing, investigating and making determinations whether to grant the permits or approvals. The fees are established as follows:

(a) For a permit or approval with an estimated time of less than 3 hours, the fee shall be \$50.

(b) For a permit or approval with an estimated time of more than 3 hours but less than 9 hours, the fee shall be \$300.

(c) For a permit or approval with an estimated time of more than 9 hours, the fee shall be \$500.

(3) SUPPLEMENTAL FEES. When the applicant requests in writing that the permit be issued in a shorter time interval than the total time interval allowed in s. NR 300.04, the department shall respond in writing within 20 business days to state whether it can comply with the request. If the request to expedite the permit review is accepted by the department:

(a) The applicant shall submit \$2000 in supplemental fees for each expedited permit request which is accepted by the department, in addition to the applicable fees in sub. (2).

(b) If the department fails to make a decision on the completed application within the time limits requested, the department shall refund the supplemental fee.

(4) REFUNDS. The department shall refund a permit or approval fee if the applicant withdraws the application before the department determines that the application for the permit or approval is complete. The department may not refund a permit or approval fee after the department determines that the application is complete.

(5) LATE APPLICATION FEE. If the applicant applies for a permit or requests an approval after the project is begun or after it is completed, the department shall charge an amount equal to twice the amount of the fee that it would have charged under this section.

(6) MULTIPLE FEES. If more than one fee is applicable to a project, the department shall charge only the highest fee of those that are applicable.

FINDING OF EMERGENCY

The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

Land development and public infrastructure projects that affect water resources are being delayed as a result of extreme workload and high staff vacancy rate in southeastern Wisconsin and elsewhere. Fee revenue must be generated immediately in order to support positions authorized in the recent budget to address the delays.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 25, 1998.

The rules contained herein shall take effect on April 1, 1998, following publication in the official state newspaper pursuant to authority granted by s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin, Friday, March 27, 1998

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary

(Seal)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE

DOA-2048 NR10/94)

Subject
Fees for Water Regulation Permit Decisions

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 Permissive Mandatory
- 2. Decrease Costs
 Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
 - School Districts WTCS Districts

Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations
20.370(4)(bi)

SUMMARY OF RULE - NR300 sets standard timeframes for making decisions on proposals for activities affecting waterways and wetlands, establishes a process for requesting expedited decision making, and sets standard and expedited fee amounts.

FISCAL IMPACT -

The proposed rule has a fiscal impact in that it sets fees to generate sufficient revenue to cover previously authorized costs.

Assumptions Used in Arriving at Fiscal Estimate

Expedited Permit Decisionmaking

This revision proposes to set a fee of \$2000 for expedited permit service under the following assumptions:

- 1. 1997 Wisconsin Act 27 provided 3.0 FTE for expedited permit processing, but did not provide additional expenditure authority. The annual salary, fringe, and supplies/services costs of 3.0 FTE Water Regulation & Zoning Specialist staff positions to deliver expedited decisions is \$133,500--calculated as follows:

$$\begin{aligned}
 &\$13.282/\text{hr} \times 2080 \text{ hrs} \times 38.02\% \text{ fringe} = \$38,100 \\
 &\$6400 \text{ (ongoing supplies + services)} = \underline{\$6,400} \\
 &\text{Annual costs per position:} \quad \quad \quad \$44,500 \text{ (x 3 FTE)} = \$133,500.
 \end{aligned}$$

- 2. Additionally, there are one-time costs [desktop computer (\$5550) and equipment (\$1650)] associated with each position totaling: \$7,200 (x 3.0 FTE) = \$21,600.

- 3. Eighty (80) expedited permit decision requests are projected per year. The projection is based on review of a calendar year 1996 applicant list for Kenosha County (a county representative of moderate development pressure) to identify corporate, large landowner, and municipal applicants. The proportion of anticipated expedited decisions requests from Kenosha County was applied to the total number of permits statewide to arrive at the estimate of 80.

- 3. The expedited permit decision fee of \$2000 per permit was set to generate sufficient revenue from the projected requests to support the 3.0 FTE Water Regulation & Zoning positions needed to deliver the service. (80 permits annually @ \$2000 each = \$160,000).

Long-Range Fiscal Implications
None.

Agency/Prepared by: (Name & Phone No.)

Joe Polasek, 266-2794

Authorized Signature/Telephone No.

Joe Polasek
4

266-2794

Date

3-13-98

Permit Fee Increase

In addition to instituting a fee for expedited permit service, this revision proposes to increase the standard fees for each category as follows:

- The fee for a "simple" permit would increase from \$30 to \$50.
- The fee for a "normal" permit would increase from \$100 to \$300.
- The fee for a "complex" permit would increase from \$300 to \$500.

Assumptions.

1. The projected number of permits for which a fee is charged, at current permit fee rates, will result in a deficit in the appropriation in the current biennium.
2. The number of permit requests will remain relatively constant. This fiscal estimate uses actual numbers of permits from calendar year 1996.
3. The breakdown of permits among the three types (simple; normal; and complex) will remain relatively constant. This fiscal estimate uses a three-year average of the percentages of each type of permit (32% simple; 48% normal; and 20% complex).
4. Approximately 40% of permit applications will be for multiple permits related to one project, for which only the single highest fee is collected.
5. Approximately 22% of applicants receive state or federal funding for their projects and are therefore exempt from fees.
6. The permit fees will generate \$223,400 in revenue, or \$3,900 annually over the FY 99 statutory expenditure authority. This fiscal estimate also assumes that revenue from the sale of wetland maps, which is credited to this appropriation, will remain constant at the fiscal year 1997 level of \$35,800.

Permit Fee Revenue Estimates were generated as follows:

Simple - 275 @ \$50	= \$ 19,000
Normal - 412 @ \$300	= \$ 171,300
Complex - 172 @ \$500	= <u>\$ 119,000</u>
Total	\$ 223,400

FISCAL ESTIMATE WORKSHEET

1997 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. NR 300	Amendment No.
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Subject
Fees for Water Regulation Permit Decisions

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$
(FTE Position Changes)	(FTE)	(- FTE)
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$	\$ 0
3. State Costs by Source of Funds		
GPR	\$	\$
FED		
PRO/PRS		
SEG/SEG-S		
II. State Revenues: Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS	262,300	
SEG/SEG-S		
TOTAL State Revenues	\$ 262,300	\$ 0

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 262,300	\$ 0

Agency/Prepared by: (Name & Phone No.) Polasek, 266-2794	Authorized Signature/Telephone No.  266-2794	Date 3-18-98
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SENATOR ROBERT T. WELCH
Co-CHAIRMAN



REPRESENTATIVE GLENN GROTHMAN
Co-CHAIRMAN

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

Attendance Form

Last Modified July 1998

Date 7/30/98 Accounting for: Public Hearing Executive Session
Location Room 417 North, State Capitol

COMMITTEE MEMBER	PRESENT	ABSENT	EXCUSED
1. Senator WELCH	✓		
2. Senator DARLING	✓		
3. Senator HUELSMAN			✓
4. Senator GROBSCHMIDT	✓		
5. Senator BRESKE	✓		
6. Representative GROTHMAN	✓		
7. Representative GUNDERSON			✓
8. Representative SERATTI	✓		
9. Representative YOUNG	✓		
10. Representative KREUSER	✓		
Totals	8	0	2


Steven Krieser, Committee Clerk

Joint Committee Report

The Joint Committee for Review of Administrative Rules Reports:

Emergency Rule DOC 328

Relating to the detention of felony probationers and parolees by the Department. Submitted by the Department of Corrections.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of DOC 328 by 60 days, at the request of the Department of Corrections.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Emergency Rule HSS 138

Relating to health insurance premiums for persons with HIV infections. Submitted by the Department of Health and Family Services.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of HFS 138 by 7 days, at the request of the Department of Health and Family Services.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.

9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Emergency Rule HSS 196.03(22)(e) - (g) Relating to the regulation of concession stands at local sporting events. Submitted by the Department of Health and Family Services.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of HFS 196.03(22)(e) - (g) by 60 days, at the request of the Department of Health and Family Services.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.

9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Emergency Rule Comm 51.03, et. al. Relating to: fire-protective penetrations in commercial dwellings and multifamily dwellings. Submitted by the Department of Commerce.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of Comm 51.03 by 60 days, at the request of the Department of Commerce.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and

Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative
Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Emergency Rule DWD 12.25

**Relating to changes in the Learnfare program. Submitted
by the Department of Workforce Development.**

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Moved by Senator Welch, seconded by Senator Darling that,
pursuant to s. 227.24(2)(a), Stats., the Joint Committee for
Review of Administrative Rules extend the effective date of
DWD 12.25 by 60 days, at the request of the Department of
Workforce Development.

Ayes: (9) Representatives Grothman, Seratti, R.
Young, and Kreuser; Senators Welch,
Darling, Huelsman, Grobschmidt, and
Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative
Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Emergency Rule NR 300

**Relating to fees for waterway and wetland permit
decisions. Submitted by the Department of Natural
Resources.**

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Present: (8) Representatives Grothman, Seratti, R.
Young and Kreuser; Senators Welch,
Darling, Grobschmidt, and Breske.

Absent: (2) Senator Huelsman and Representative
Gunderson.

Moved by Senator Grobschmidt, seconded by Senator Breske
that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee
for Review of Administrative Rules extend the effective date

of NR 300 by 60 days, at the request of the Department of Natural Resources.

Ayes: (6) Representatives R. Young and Kreuser;
Senators Welch, Huelsman,
Grobschmidt, and Breske.

Noes: (3) Senator Darling; Representatives Grothman
and Seratti.


Absent: (2) Senator Huelsman and Representative
Gunderson

Motion Carried: Extension Granted.
6 Ayes, 3 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.



Senator Robert T. Welch
Senate Co-Chairman



Representative Glenn S. Grothman
Assembly Co-Chairman



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 31, 1998

Senator Joanne Huelsman
119 MLK Jr. Blvd., Room 510

Dear Senator Huelsman:

Enclosed, please find the roll call record for the executive session held by the Joint Committee for Review of Administrative Rules this afternoon. You may use this record to ascertain the votes of other members of the committee as you cast your paper ballot. For the purposes of legislative record-keeping, your vote will be recorded as you cast it, and a notation will be entered into the record that the vote was cast by paper ballot.

Provided below are the motions which were put before the Joint Committee this afternoon. If you have any questions, please feel free to contact me for clarifications. Please return this completed ballot to my office no later than July 31, 1998. Thank you for your time.

Be it moved that, pursuant to s. 227.24(2)(a), stats, the Joint Committee for Review of Administrative Rules extend the effective period of the following emergency rules by a period of:

1. DOC 328 by 60 days, Comm 51 by 60 days, DWD 12.25 by 60 days, HFS 196 by 60 days, and HSS 138 by 7 days?
2. NR 300 by 60 days?

Aye No
 Aye No

Motion 1: Voting in Favor: Senators Welch, Darling, Grobschmidt, and Breske. Representatives Grothman, Seratti, R. Young, and Kreuser.

Voting Against: None.

Motion 2: Voting in Favor: Senators Welch, Grobschmidt, and Breske. Representatives R. Young and Kreuser.

Voting Against: Senator Darling; Representatives Grothman and Seratti.

Sincerely,

Steve

Steven Krieser
Assembly Clerk
JCRAR
Office of Assembly Co-Chairman Glenn Grothman

Emergency Rule NR 300

Relating to fees for waterway and wetland permit decisions. Submitted by the Department of Natural Resources.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Present: (8) Representatives Grothman, Seratti, R. Young and Kreuser; Senators Welch, Darling, Grobschmidt, and Breske.

Absent: (2) Senator Huelsman and Representative Gunderson.

Moved by Senator Grobschmidt, seconded by Senator Breske that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of NR 300 by 60 days, at the request of the Department of Natural Resources.

Ayes: (6) Representatives R. Young and Kreuser; Senators Welch, Huelsman, Grobschmidt, and Breske.

Noes: (3) Senator Darling; Representatives Grothman and Seratti.

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
7 Ayes, 2 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.



Steven Krieser, Committee Clerk

Emergency Rule DOC 328

Relating to the detention of felony probationers and parolees by the Department. Submitted by the Department of Corrections.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Present: (8) Representatives Grothman, Seratti, R. Young and Kreuser; Senators Welch, Darling, Grobschmidt, and Breske.

Absent: (2) Senator Huelsman and Representative Gunderson.

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of DOC 328 by 60 days, at the request of the Department of Corrections.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.



Steven Krieser, Committee Clerk

Emergency Rule HSS 138

Relating to health insurance premiums for persons with HIV infections. Submitted by the Department of Health and Family Services.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Present: (8) Representatives Grothman, Seratti, R. Young and Kreuser; Senators Welch, Darling, Grobschmidt, and Breske.

Absent: (2) Senator Huelsman and Representative Gunderson.

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of HFS 138 by 7 days, at the request of the Department of Health and Family Services.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.



Steven Krieser, Committee Clerk

Emergency Rule HSS 196.03(22)(e) - (g) Relating to the regulation of concession stands at local sporting events. Submitted by the Department of Health and Family Services.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Present: (8) Representatives Grothman, Seratti, R. Young and Kreuser; Senators Welch, Darling, Grobschmidt, and Breske.

Absent: (2) Senator Huelsman and Representative Gunderson.

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of HFS 196.03(22)(e) - (g) by 60 days, at the request of the Department of Health and Family Services.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.



Steven Krieser, Committee Clerk

Emergency Rule DWD 12.25

Relating to changes in the Learnfare program. Submitted by the Department of Workforce Development.

May 6, 1998

EXECUTIVE SESSION HELD

Present: (9) Senators Welch, Darling, Huelsman, Grobschmidt, and Potter; Representatives Grothman, Gunderson, R. Young, and Kreuser.

Absent: (0) None.

Excused: (1) Representative Seratti.

Moved by Senator Welch, seconded by Representative Gunderson that, pursuant to s. 227.24(2)(a), stats., the Joint Committee for Review of Administrative Rules extend the effective period of emergency rule DWD 12.25 by 60 days, at the request of the Department of Workforce Development.

Ayes: (9) Senators Welch, Darling, Huelsman, Grobschmidt, and Potter; Representatives Grothman, Gunderson, R. Young, and Kreuser.

Noes: (0) None.

Absent: (1) Representative Seratti.

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 1 Absent.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Present: (8) Representatives Grothman, Seratti, R. Young and Kreuser; Senators Welch, Darling, Grobschmidt, and Breske.

Absent: (2) Senator Huelsman and Representative Gunderson.

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of DWD 12.25 by 60 days, at the request of the Department of Workforce Development.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch,

Darling, Huelsman, Grobschmidt, and
Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative
 Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.



Steven Krieser, Committee Clerk

Emergency Rule Comm 51.03, *et. al.*

Relating to: fire-protective penetrations in commercial dwellings and multifamily dwellings. Submitted by the Department of Commerce.

May 28, 1998

EXECUTIVE SESSION/POLLING HELD

Present: (7) Senators Welch, Darling, and Grobschmidt; Representatives Grothman, Gunderson, Seratti, and Kreuser.

Absent: (3) Senators Huelsman and Potter; Representative R. Young.

Moved by Senator Welch, seconded by Representative Grothman, that pursuant to s. 227.24(2)(a), the Joint Committee for Review of Administrative Rules extend the effective period of emergency rule Comm 51.03 *et. al.* by 60 days, at the request of the Department of Commerce.

Ayes: (9) Senators Welch, Darling, Huelsman, Grobschmidt, and Potter; Representatives Grothman, Gunderson, Seratti, and Kreuser.

Noes: (0) None.

Absent: (3) Senators Huelsman and Potter; Representatives R. Young.

EXTENSION GRANTED, Ayes 9, Noes 0, Absent 3.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Present: (8) Representatives Grothman, Seratti, R. Young and Kreuser; Senators Welch, Darling, Grobschmidt, and Breske.

Absent: (2) Senator Huelsman and Representative Gunderson.

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of Comm 51.03 by 60 days, at the request of the Department of Commerce.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.



Steven Krieser, Committee Clerk

PI 35.03(3)(c) 4-10

Relating to regulations and the "Intent to Participate" form imposed by the Department upon private sectarian and nonsectarian schools choosing to participate in the Milwaukee Parental Choice Program (school choice).

July 30, 1998

PUBLIC HEARING HELD

Present: (8) Representatives Grothman, Seratti, R. Young and Kreuser; Senators Welch, Darling, Grobschmidt, and Breske.

Absent: (2) Senator Huelsman and Representative Gunderson.

Persons Appearing In Favor of Suspension:

- ⇒ Dan McKinley, Milwaukee; Parents Advancing Values in Education
- ⇒ Attorney Gordon Giampietro, Milwaukee; Parents Advancing Values in Education
- ⇒ Roger Laesch, Milwaukee; Schools of the South Wisconsin District of the Lutheran Church - Missouri Synod
- ⇒ Sharon Schmeling, Madison; Catholic Conference
- ⇒ John Norris; Archdiocese of Milwaukee
- ⇒ Sister Monica Fumo, Milwaukee; St. Joan Antida High School
- ⇒ Valerie Johnson, Milwaukee; St. Joan Antida High School
- ⇒ Jeff Monday, Milwaukee; Principal - Messmer High School
- ⇒ Dr. Daniel Grego, Milwaukee; Transcenter for Youth, Inc.
- ⇒ Debra Dosemagen, Milwaukee; Pius XI High School
- ⇒ Keith Klestinski, Milwaukee; Marquette University High School
- ⇒ Jim Mueller, Verona

Persons Appearing In Opposition to Suspension:

- ⇒ Christopher Ahmuty, Milwaukee; American Civil Liberties Union
- ⇒ Katie Schultz Stout, Madison; Wisconsin Education Association Council and the Wisconsin Federation of Teachers
- ⇒ James J. Shaw, Menomonee Falls; School Administrators Alliance and Wisconsin Association of School District Administrators
- ⇒ Nan Brien, Madison; Wisconsin Council on Children and Families
- ⇒ Jeff Spitzer-Resnick, Madison; Wisconsin Coalition for Advocacy
- ⇒ Sam Carmen, New Berlin; Milwaukee Teachers Education Association
- ⇒ Dennis Oulahan, Milwaukee; Exceptional Education Task Force
- ⇒ Pat Patterson, Milwaukee; Omatayo
- ⇒ Penny Burrall, Cedarburg; PTA
- ⇒ Leona E. Balek, Madison; Americans United for Separation of Church and State
- ⇒ Sue Endress, Milwaukee; representing her daughter Megan
- ⇒ Kathryn Shug, Madison; LDA

Persons Registering in Favor of Suspension:

- ⇒ State Senator Margaret Farrow, 33rd Senate District
- ⇒ Mary Jo Baldwin, Milwaukee

- ⇒ Jodi Goldberg, Milwaukee
- ⇒ Dave Prothero, Wauwatosa
- ⇒ George Mitchell, Whitefish Bay
- ⇒ Mary Talsky, Milwaukee
- ⇒ Linda K. Trent, Madison
- ⇒ Jason Dearnhill, Milwaukee
- ⇒ Nakra Solochek, Milwaukee
- ⇒ Gathan Anderson, Milwaukee
- ⇒ Dennis Watson, Milwaukee
- ⇒ Daniel Goldberg, Milwaukee

Persons Registering In Opposition to Suspension:

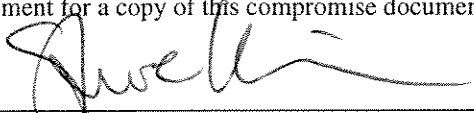
- ⇒ Judith Fell, Madison; Wisconsin Council on Developmental Disabilities
- ⇒ Constance Threinen, Middleton; Wisconsin Women's Network
- ⇒ Harold Rebholz, Madison; Wisconsin Retired Educators' Association
- ⇒ Jennifer Kammerud, Madison; School Administrators' Alliance
- ⇒ Linda Gaston-Mounger, Milwaukee; Milwaukee Teachers Education Association
- ⇒ A. Steven Porter, Madison

Persons Appearing for Information Only:

- ⇒ Attorney Robert J. Paul, Madison; Department of Public Instruction
- ⇒ Michael Boerger, Madison; Department of Public Instruction

The Joint Committee accepted a compromise offered by the Department which accomplishes the following:

- Repeal of PI 35.03(3)(c) 4-10
- Elimination of the "Intent to Participate" form in use by the Department prior to this date
- Replacement of this form with a letter, to be signed by participating private schools, which acknowledges that the school has been made aware by the Department that the school *may* have to comply with the state and federal laws enumerated in the rules cited above. See attachment for a copy of this compromise document.



 Steven Krieser, Committee Clerk

07/31/98 10:04

JUL -28 '98 (TUE) 17:16

STATE SUPT, S OFFICE

TEL:6082665188

P. 002 001



**State of Wisconsin
Department of Public Instruction**

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841
125 South Webster Street, Madison, WI 53702
(800) 286-3380 TDD (608) 267-2427 FAX (608) 267-1052
Internet Address: www.dpi.state.wi.us

John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

DATE

[Choice School
Administrator
Street
City, state, zip]

RE: Milwaukee Parental Choice - Student Rights

Dear School Administrator/Principal:

Judge Susan Steingass ruled in *Davis v. Grover*, (Trial court opinion, Dane County, 8-6-90) that the attached Student Rights apply to private schools participating in this public program.

The Judge also ruled DPI has an obligation to advise participating schools of these state and federal provisions.

As administrator of the school, please sign and date this letter below and return the original in the enclosed envelope.

Sincerely,

John T. Benson
State Superintendent

I hereby acknowledge I have received and read this letter.

School Administrator/Principal

Date

STUDENT RIGHTS

1. The Wisconsin Pupil Nondiscrimination Act, s. 118.13 and PI 9 which prohibit discrimination against students on the grounds of sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability.
2. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et. seq., which prohibits discrimination on the basis of sex in educational programs.
3. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et. seq., which prohibits discrimination on the basis of age in programs or activities.
4. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 et. seq., which prohibits discrimination on the basis of handicap in programs and activities. To comply in Section 504, DPI must assure that no qualified handicapped persons are excluded from its programs; and must assure that all handicapped students in funded placements have opportunity for a free appropriate education.
5. The Family Education Rights and Privacy Act, 20 U.S.C. 1232g, 34 CFR 99, which regulates access and release of student's educational records.
6. All federal and state constitutional guarantees protecting the rights and liberties of individuals including freedom of religion, expression, association, against unreasonable search and seizure, equal protection, and due process.
7. All regulations, guidelines, and standards lawfully adopted under the above statutes by the appropriate administrative agency.
8. Pupils charged with misconduct and subject to suspension or expulsion shall be accorded state and federal constitutional due process of law.

Attachment to JTB letter to
MPCP School Administrators
July-August, 1998



P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-0751

P.O. Box 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 30, 1998

The Honorable Brian Rude
Senate President
119 Martin Luther King, Jr. Blvd., Room 102
Madison, WI 53702

The Honorable Scott Jensen
Assembly Speaker
State Capitol Building, Room 211 West
Madison, WI 53702

Dear President Rude and Speaker Jensen:

The Joint Committee for the Review of Administrative Rules met in Executive Session on July 30, 1998 and adopted the following motions:

Emergency Rule DOC 328

Relating to the detention of felony probationers and parolees by the Department. Submitted by the Department of Corrections.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of DOC 328 by 60 days, at the request of the Department of Corrections.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Emergency Rule HSS 138

Relating to health insurance premiums for persons with HIV infections. Submitted by the Department of Health and Family Services.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of HFS 138 by 7 days, at the request of the Department of Health and Family Services.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Emergency Rule HSS 196.03(22)(e) - (g)

Relating to the regulation of concession stands at local sporting events. Submitted by the Department of Health and Family Services.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of HFS 196.03(22)(e) - (g) by 60 days, at the request of the Department of Health and Family Services.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Emergency Rule Comm 51.03, et. al.

Relating to: fire-protective penetrations in commercial dwellings and multifamily dwellings. Submitted by the Department of Commerce.

July 30, 1998

EXECUTIVE SESSION/POLLING HELD

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of Comm 51.03 by 60 days, at the request of the Department of Commerce.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Emergency Rule DWD 12.25

July 30, 1998

Relating to changes in the Learnfare program. Submitted by the Department of Workforce Development.

EXECUTIVE SESSION/POLLING HELD

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of DWD 12.25 by 60 days, at the request of the Department of Workforce Development.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Emergency Rule NR 300

July 30, 1998

Relating to fees for waterway and wetland permit decisions. Submitted by the Department of Natural Resources.

EXECUTIVE SESSION/POLLING HELD

Present: (8) Representatives Grothman, Seratti, R. Young and Kreuser; Senators Welch, Darling, Grobschmidt, and Breske.

Absent: (2) Senator Huelsman and Representative Gunderson.

Moved by Senator Grobschmidt, seconded by Senator Breske that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of NR 300 by 60 days, at the request of the Department of Natural Resources.

Ayes: (6) Representatives R. Young and Kreuser;
Senators Welch, Huelsman,
Grobschmidt, and Breske.

Noes: (3) Senator Darling; Representatives Grothman
and Seratti.

Absent: (2) Senator Huelsman and Representative
Gunderson

Motion Carried: Extension Granted.
6 Ayes, 3 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Pursuant to s. 227.24(2)(c), stats., as treated by 1997 Wisconsin Act 185, please forward a copy of this notice to the chairperson of the standing committee in your respective house most likely to have jurisdiction over the Clearinghouse Rule corresponding to this emergency rule.

Sincerely,



Senator Robert Welch
Senate Co-Chair



Representative Glenn Grothman
Assembly Co-Chair

BW:GG:swk



P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-0751

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MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 30, 1998

George Meyer, Secretary
Department of Natural Resources
101 South Webster Street
Madison, WI 53707-7921

Dear Secretary Meyer:

The Joint Committee for the Review of Administrative Rules met in Executive Session on July 30, 1998 and adopted the following motion:

Moved by Senator Grobschmidt, seconded by Senator Breske that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of NR 300 by 60 days, at the request of the Department of Natural Resources.

Ayes: (6) Representatives R. Young and Kreuser;
Senators Welch, Huelsman,
Grobschmidt, and Breske.

Noes: (3) Senator Darling; Representatives Grothman
and Seratti.

Absent: (2) Senator Huelsman and Representative
Gunderson

Motion Carried: Extension Granted.
6 Ayes, 3 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

Robert Welch
Senate Co-Chair

Glenn Grothman
Assembly Co-Chair

RW:GSG:swk

cc: Secretary of State La Follette
Revisor of Statutes Gary Poulson



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(608) 266-0751

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MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 30, 1998

Joe Leann, Secretary
Department of Health and Family Services
1 West Wilson Street, Ste. 650
Madison, WI 53702

Dear Secretary Leann:

The Joint Committee for the Review of Administrative Rules met in Executive Session on July 30, 1998 and adopted the following motions:

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of HFS 138 by 7 days, at the request of the Department of Health and Family Services.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of HFS 196.03(22)(e) - (g) by 60 days, at the request of the Department of Health and Family Services.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative
 Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,



ROBERT T. WELCH
Senate Co-Chair



GLENN GROTHMAN
Assembly Co-Chair

RW:GSG:swk

cc: Secretary of State La Follette
Revisor of Statutes Gary Poulson



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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 30, 1998

Linda Stewart, Secretary
Department of Workforce Development
201 East Washington Avenue
Madison, WI 53707-7946

Dear Secretary Stewart:

The Joint Committee for the Review of Administrative Rules met in Executive Session on July 30, 1998 and adopted the following motion:

Emergency Rule DWD 12.25

Relating to changes in the Learnfare program. Submitted by the Department of Workforce Development.

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of DWD 12.25 by 60 days, at the request of the Department of Workforce Development.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

ROBERT T. WELCH
Senate Co-Chair

GLENN GROTHMAN
Assembly Co-Chair

RW:GSG:swk

cc: Secretary of State La Follette
Revisor of Statutes Gary Poulson



P.O. Box 7882
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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 30, 1998

William McCoshen, Secretary
Department of Commerce
123 West Washington Avenue
Madison, WI 53707-7970

Dear Secretary McCoshen:

The Joint Committee for the Review of Administrative Rules met in Executive Session on July 30, 1998 and adopted the following motions:

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of Comm 51.03 by 60 days, at the request of the Department of Commerce.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

Senator Robert Welch
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

BW:GG:swk

cc: Secretary of State Doug LaFollette
Revisor of Statutes Gary Poulson



P.O. Box 7882
MADISON, WI 53707-7882
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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 30, 1998

Michael J. Sullivan, Secretary
Department of Corrections
149 East Wilson Street
Madison, WI 53707-7925

Dear Secretary Sullivan:

The Joint Committee for the Review of Administrative Rules met in Executive Session on July 30, 1998 and adopted the following motions:

Moved by Senator Welch, seconded by Senator Darling that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of DOC 328 by 60 days, at the request of the Department of Corrections.

Ayes: (9) Representatives Grothman, Seratti, R. Young, and Kreuser; Senators Welch, Darling, Huelsman, Grobschmidt, and Breske.

Noes: (0)

Absent: (2) Senator Huelsman and Representative Gunderson

Motion Carried: Extension Granted.
9 Ayes, 0 Noes, 2 Absent.

* Senator Huelsman voted by paper ballot.

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

ROBERT T. WELCH
Senate Co-Chair

GLENN GROTHMAN
Assembly Co-Chair

RW:GSG:swk

cc: Secretary of State La Follette
Revisor of Statutes Gary Poulson

SENATOR ROBERT T. WELCH
CO-CHAIRMAN



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIRMAN

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

July 28, 1998

MEMORANDUM

To : JCRAR Members

From : Les Wakefield and Steve Krueser, Committee Clerks

Subject : Additional Information for the School Choice portion of the Hearing

The following information has been received by the JCRAR Chairs. In an effort to keep you apprised of breaking developments, we are enclosing copies of the material for your review. If you have any questions, contact Les Wakefield (6-0751) or Steve Krieser (4-8486). Should additional information be received we will forward it to you as soon as possible.

DPI bans single-sex schools in choice plan

Choice supporters see rules as defeating purpose

By JOE WILLIAMS
of the Journal Sentinel staff

All-boys and all-girls private schools would not be able to participate in the expanded school choice program because they violate sex discrimination rules being applied by the Department of Public Instruction. Choice supporters say those rules, along with hundreds of pages of other requirements, will interfere with the whole intent of the choice legislation: to provide a large number of viable alternatives to the Milwaukee Public Schools system.

But critics of the choice program — a strong public school advocate, the American Civil Liberties Union and the like — say that if private schools are going to get public money, they are going to have to follow the same rules as the public schools.

Under the expanded school choice program, which was recently upheld as constitutional by the state Supreme Court, poor students can receive taxpayer-financed vouchers to use at private or religious schools. The Legislature created the program to expand educational choices for poor children in the city.

But the DPI, in essence, is now limiting those choices, says choice supporters. Although the DPI application form for choice schools does not require them to indicate whether they are single-sex schools, it does require them to accept a page of "student rights." Those rights include federal and state laws pertaining to discrimination on the basis of sex, religion and race, requirements for disability, and provisions for "due process" when schools deal with expulsions or suspensions.

There are six single-sex schools in Milwaukee that would be affected by the sexual

Please see CHOICE page 8

Choice/Some say rules impede schools; others see fairness

From page 1

discrimination interpretation: St. Joan Antida High School, Marquette University High School, Divine Savior Holy Angels, Nativty Jesuit Middle School, Wisconsin Institute for Torah Studies, and Torah Academy.

"Some of these schools are very concerned with the distinctions that are being made," said Dan McKinley, of the group Partners Advancing Values in Education, which is working with schools and families on implementing the expanded program. "People from Nativty Jesuit School were in my office several times, and they were shaking their heads because the legislation's intent was clearly to open up some of these types of schools to poor children."

Sister Monica Fumo, principal of St. Joan Antida, said her colleagues were a bit uncertain about the DPI approach.

"We will never not consider ourselves a private, Catholic school for girls," Fumo said. Fumo said she was confused by the situation because she once volunteered with an MPS alternative school — Milwaukee Spectrum — with an all-female population.

"Why should it apply to us if it doesn't apply there?" Fumo said. Sen. Alberta Darling (R-River Hills) chairwoman of the Senate education committee, said last week she will ask a legislative committee to suspend the DPI rules so that new rules consistent with the recent Supreme Court ruling on choice could be drafted.

Darling said she will be asking for help from Sen. Robert Welch (R-Redgranite), co-chairman of the Joint Committee for Review of Administrative Rules. The committee has the power to suspend administrative rules if they interfere with the specific intent of legislation.

Any suspension of rules won't sit well with opponents of the expanded choice program.

"If they are going to take taxpayer money, then students should have rights very similar to what they have in public schools," said Chris Ahmuty, executive director of the American Civil Liberties Union of Wisconsin. "After all, rights in and of themselves are valuable things. They help our students become better and more responsible citizens when they recognize they have rights and responsibilities."

Ahmuty said that despite rumors that the Wisconsin choice case would not be challenged before the U.S. Supreme Court, the ACLU and other opponents of choice at the state level are preparing documents for the appeal. They have 90 days to file from the date of the June 10 state Supreme Court decision.

DPI officials maintain they are taking their cue from lawsuits around the country that have es-

ablished that taxpayer-supported schools cannot discriminate on the basis of sex. Court decisions allowing females to attend traditionally all-male Virginia Military Institute and The Citadel, for example, "appear to preclude single-gender schools in this public program," wrote Steve Doid, deputy state superintendent, in a letter to choice supporters.

"I think choice schools are going to have to grapple with these issues," said Milwaukee School Board member Sandra Small. "The main issue is, public funds demand accountability. This is what we're all about in public education. Once you decide to use public funds, you have to play by the rules. Period."

In the weeks since the court decision, MPS Superintendent Alan Brown has echoed those thoughts, saying public schools must be able to compete with choice schools on a level playing field. In other words, he also

wants them to abide by the same federal and state requirements as public schools.

Choice supporters maintain, however, that because vouchers are given to parents — not schools — the participating schools should not be governed by rulings and rules that apply to public schools.

"These schools are clearly not public schools," McKinley said. Clint Bolick, litigation director for the Institute for Justice, a Washington-based group that represented parents in the school choice court case, said in a letter to legislators that DPI's attachment of an array of state and federal regulations would frustrate the intent of the state to expand educational opportunities for poor children in the city.

"Those rules expose the schools to uncertain legal requirements and therefore may discourage participation in the program," Bolick wrote. And the issue goes beyond

just single-sex enrollment. For example, although MPS maintains that choice schools should have to educate the same types of students as the public schools, choice schools say it will be more difficult for them to obtain extra funding to cover the higher cost of educating students with special needs.

More than 100 representatives of private schools — mostly Catholic and Lutheran — met with DPI officials last week at Mount Mary College to discuss the bureaucratic nuances of the program. DPI officials went over everything from how to ensure "random selection" of students to the need for uniform fiscal-year calendars to the concept of "third Friday" counts to determine enrollment.

The school representatives came away with as many problems as solutions. The question now is whether those problems can get resolved in time for the fall semester, just a few weeks away.