



# STATE OF WISCONSIN Assembly Journal

## Ninety-Sixth Regular Session

WEDNESDAY, December 1, 2004

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

### COMMUNICATIONS

State of Wisconsin  
Revisor of Statutes Bureau  
Madison

**DATE:** November 1, 2004

**TO:** Patrick E. Fuller  
Assembly Chief Clerk

Robert Marchant  
Senate Chief Clerk

**FROM:** Gary L. Poulson  
Assistant Revisor of Statutes

**SUBJECT:** Rules published in the October 31, 2004,  
Wisconsin Administrative [Register, No. 586](#).

The following rules have been published:

<a href="#">Clearinghouse Rule 01-104</a>	effective	11-1-2004
<a href="#">Clearinghouse Rule 03-054</a>	effective	11-1-2004
<a href="#">Clearinghouse Rule 03-119</a>	effective	11-1-2004
<a href="#">Clearinghouse Rule 04-005</a>	effective	11-1-2004
<a href="#">Clearinghouse Rule 04-025</a>	effective	11-1-2004
<a href="#">Clearinghouse Rule 04-027</a>	effective	11-1-2004
<a href="#">Clearinghouse Rule 04-045</a>	effective	11-1-2004
<a href="#">Clearinghouse Rule 04-048</a>	effective	11-1-2004
<a href="#">Clearinghouse Rule 04-050</a>	effective	11-1-2004
<a href="#">Clearinghouse Rule 04-053</a>	effective	11-1-2004
<a href="#">Clearinghouse Rule 04-056</a>	effective	11-1-2004

State of Wisconsin  
Revisor of Statutes Bureau  
Madison

**DATE:** December 1, 2004

**TO:** Patrick E. Fuller  
Assembly Chief Clerk

Robert Marchant  
Senate Chief Clerk

**FROM:** Gary L. Poulson  
Assistant Revisor of Statutes

**SUBJECT:** Rules published in the November 30, 2004,  
Wisconsin Administrative [Register, No. 587](#).

The following rules have been published:

<a href="#">Clearinghouse Rule 03-097</a>	effective	1-1-2005
<a href="#">Clearinghouse Rule 04-010</a>	effective	12-1-2004
<a href="#">Clearinghouse Rule 04-022</a>	effective	12-1-2004
<a href="#">Clearinghouse Rule 04-026</a>	part eff.	1-1-2005
	part eff.	10-1-2005
<a href="#">Clearinghouse Rule 04-033</a>	effective	12-1-2004
<a href="#">Clearinghouse Rule 04-035</a>	effective	12-1-2004
<a href="#">Clearinghouse Rule 04-040</a>	part eff.	12-1-2004
<a href="#">Clearinghouse Rule 04-047</a>	effective	12-1-2004
<a href="#">Clearinghouse Rule 04-051</a>	effective	12-1-2004
<a href="#">Clearinghouse Rule 04-054</a>	effective	12-1-2004
<a href="#">Clearinghouse Rule 04-075</a>	effective	12-1-2004
<a href="#">Clearinghouse Rule 04-080</a>	effective	12-1-2004
<a href="#">Clearinghouse Rule 04-082</a>	effective	12-1-2004

### REFERRAL OF AGENCY REPORTS

State of Wisconsin  
Department of Transportation  
Madison

October 28, 2004

To the Honorable, the Legislature:

The purpose of this letter is to serve as a cover for the Design-Build 6th St. Bridge report. Section [84.11 \(5n\)\(c\)](#), Stats., requires "no later than 5 years after October 29, 1999, the department shall submit a report to the governor, and to the legislature under s. [13.172\(2\)](#), describing the effectiveness of the design-build process contracting procedures under this subsection."

The \$49.5 million Design-Build 6th St. Bridge contract was awarded on June 30, 2000 with work beginning on August 2, 2000. The new bridge was opened to traffic on September 4, 2002. This report, also submitted to the Federal Highway Administration, under the provisions of Special Experimental Project No. 14 (SEP), discusses scope of work, history of the project, evaluation criteria, selection process, contract administration, work progression, time and cost comparisons between the traditional contracting method design-bid-build and design-build, claims and changes.

Several months ago, I charged a multi-stakeholder work group with evaluating the Design-Build contracting method. That work group's objectives were to provide me with a report that consisted of a review of the proposals of the previous WisDOT Design/Build study (completed in 2001), a study of recent and past examples of other states' experiences with implementing design-build, best practices and lessons learned, and input from all stakeholders. Our analyses, along with the successful completion of the 6th St. Bridge project, indicate that design-build can work in Wisconsin.

As we move forward fulfilling our role in sustaining and growing Wisconsin's economy, we recognize that we have great challenges. The design-build delivery method is an additional tool to help us deliver our complex improvement program. It enables the Department of Transportation to contract with a single entity for both design and construction services on an entire project. It provides opportunities for innovation, accelerated completion time and a higher level of cost-certainty. The attractiveness of design-build lies primarily in the potential for innovation in project staging and construction methods that stems from the design-builder collaboration.

Sincerely,  
*FRANK J. BUSALACCHI*  
Secretary

Referred to committee on **Transportation**.

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State of Wisconsin  
Department of Administration  
Madison

October 29, 2004

To the Honorable, the Legislature:

This report is transmitted as required by s. 20.002(11)(f), Wisconsin Statutes, (for distribution to the appropriate standing committees under s. 13.172(3), Wisconsin Statutes), and confirms that the Department of Administration has found it necessary to exercise the "temporary reallocation of balances" authority provided by this section in order to meet payment responsibilities and cover resulting negative cash balances during the month of September 2004.

On September 1, 2004, the **Medical Assistance Trust Fund** cash balance closed at its intramonth low of a negative \$199.1 million. The fund's negative cash balance continued through September 30, 2004, when the fund's cash balance closed at a negative \$195.9 million. The deficit is due to federal revenues falling short of estimates included in [2003 Wisconsin Act 33](#).

On September 1, 2004, the **University Trust – Principal Fund** cash balance closed at a negative \$2.5 million. The fund's negative cash balance continued until September 23, 2004, when the fund's cash balance closed at a positive \$7.4 million. The negative balance was due to a coding error, which has since been corrected.

On September 30, 2004, the **Agricultural Chemical Cleanup Fund** cash balance closed at a negative \$10.0 thousand. The negative balance was due to the difference in the timing of revenues and expenditures.

The Medical Assistance Trust Fund, the University Trust – Principal Fund, and the Agricultural Chemical Cleanup Fund shortfalls were not in excess of the statutory interfund borrowing limitations and did not exceed the balances of the funds available for interfund borrowing.

The distribution of interest earnings to investment pool participants is based on the average daily balance in the pool and each fund's share. Therefore, the monthly calculation by the State Controller's Office will automatically reflect the use of these temporary reallocations of balance authority, and as a result, the funds requiring the use of the authority will effectively bear the interest cost.

Sincerely,  
*MARC J. MARROTTA*  
Secretary

Referred to committee on **Ways and Means**.

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State of Wisconsin  
Department of Public Instruction  
Madison

November 8, 2004

To the Honorable, the Legislature:

In accordance with s. 115.28 (49), Wis. Stats., the Department of Public Instruction submits this report relating to actions taken on new charter school petitions or proposals. The report provides information relating to the status of existing charter schools, the number of petitions for new charter schools, and school board and departmental action on petitions for new charter schools.

An electronic survey was administered to 426 Wisconsin public school district superintendents in the state. Using a mixed mode methodology that included a survey, emails, letters and phone calls, a 100 percent response rate was achieved. During the 2002-03 school year, there were 117 operating charter schools authorized by Wisconsin school boards and 11 charter schools authorized by non-school board sponsors. While there are multiple authorizers in the state of Wisconsin, this report specifically addresses local school board action as required by the legislature and does not include activity or action taken on new charter school petitions or proposals by non-school board sponsors.

In 2002, the DPI applied for and was awarded a three-year, \$27 million federal grant from the United States Department of Education (USDE) to support planning and start up of new charter schools and the dissemination of best practice to increase student achievement. The DPI state charter plan submitted to USDE projects 150 operating charter schools by the 2004-05 school year. There currently are 161 operating charter schools, thus, the goal has been exceeded.

If you have questions regarding this document, please contact Paula Crandall Decker, Charter School Consultant, at 608-266-5728.

Sincerely,  
*ELIZABETH BURMASTER*  
State Superintendent

Referred to committee on **Education Reform**.

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State of Wisconsin  
Department of Health and Family Services  
Madison

November 12, 2004

To the Honorable, the Assembly:

On behalf of the Board of Governors of the Health Insurance Risk Sharing Plan (HIRSP), I am pleased to submit the calendar year 2003 annual report. This submission is in accordance with the statutory requirements set forth at s. 149.15, Wisconsin Statutes.

The report includes:

- \* A summary of how HIRSP is funded, who is eligible, what services are covered and policyholder premium, deductible and coinsurance obligations.
- \* A historical overview and summary of HIRSP-related legislative changes since 1997.
- \* Demographic information about HIRSP policyholders.
- \* An explanation of HIRSP's funding and financial information.
- \* Utilization and cost data, including summaries of HIRSP payments by diagnosis category and by therapeutic classes of prescription drugs.

The Department of Health and Family Services and the HIRSP Board appreciate the continuing support of the Legislature. Please contact me if I may provide additional information.

Sincerely,  
*MARK B. MOODY*  
Administrator

Referred to committee on **Health**.

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## AGENCY REPORTS

State of Wisconsin  
Housing and Economic Development Authority  
Madison

October 31, 2004

To the Honorable, the Legislature:

Pursuant to Wisconsin Statute 234.931 (5), enclosed please find the following reports relating to the Wisconsin Development Reserve Fund:

Annual Report of Guarantee Funds as of June 30, 2004.

Should you have any question or comments on the reports, please feel free to call me at 266-1640.

Sincerely,  
*LAURA B. MORRIS*  
Chief Financial Officer

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State of Wisconsin  
Legislative Audit Bureau  
Madison

November 9, 2004

To the Honorable, the Legislature:

We have completed a review of the administration of the Wisconsin Works (W-2) program by Opportunities Industrialization Center of Greater Milwaukee, Inc. (OIC-GM), Wisconsin's largest provider of W-2 services, which has been awarded state contracts totaling \$231.5 million since 1997. This review was undertaken as part of our ongoing, comprehensive audit of the W-2 program, as requested by the Joint Legislative Audit Committee.

We found that OIC-GM's relationships with other companies are complex and include a subsidiary, affiliates, and ownership interests in other organizations. There is also substantial overlap in the leadership of OIC-GM and these organizations. During the 2002-2003 W-2 contract period, OIC-GM paid these companies at least \$2.1 million. Although we found no evidence these payments were inappropriate, there is, at a minimum, the potential for OIC-GM and its associated organizations to financially benefit through noncompetitive subcontracts involving state and federal funds.

We reviewed the level and appropriateness of expenditures made by OIC-GM under W-2 and other programs and with other state and federal funds, including payments made to an attorney recently convicted of misappropriating state and federal funds. We questioned \$421,200 in state and federal funds OIC-GM paid for legal services, including \$308,000 for questionable work that was inadequately supported and \$113,200 paid to an officer of OIC-GM, which is not allowed under federal regulations. We also found that OIC-GM had large expenditures for telecommunications, which totaled at least \$330,700 for the 2002-2003 contract period.

Among \$1.2 million in other transactions made by OIC-GM, we identified \$6,900 in expenditures charged to the W-2 program that are unallowable, and we questioned another \$86,400 primarily because they were excessive, extraordinary, or unnecessary to agency operations.

Sincerely,  
*JANICE MUELLER*  
State Auditor

State of Wisconsin  
Legislative Audit Bureau  
Madison

November 22, 2004

To the Honorable, the Legislature:

We have completed an evaluation of the State of Wisconsin Investment Board, as directed by s. 25.17(51m), Wis. Stats. As of December 31, 2003, the Investment Board managed a total of \$69.1 billion in investments that included assets of the Wisconsin Retirement System, the State Investment Fund, and five smaller insurance and trust funds.

Despite negative returns from 2000 through 2002, the Investment Board continues to exceed its long-term actuarial investment expectations for the Fixed Retirement Trust Fund. In 2003, both retirement funds – the Fixed Retirement Trust and the Variable Retirement Trust – outperformed their benchmarks, and the Fixed Retirement Trust Fund's 2003 performance ranked highly among ten pension funds surveyed for one- and five-year periods.

The Investment Board's costs to manage investments have increased from \$87.4 million in 1999 to \$156.7 million in 2003, or by 79.3 percent. Most of the increase is related to

increased costs paid to external investment managers and advisors. In addition, a new compensation plan has increased salaries and bonuses for the Board's 100.5 unclassified staff. We include a recommendation for the Investment Board to regularly evaluate the added value provided by external investment managers relative to their costs and in comparison to other investment options.

Currently, the Investment Board's budget for internal operating costs and the percentage of investments that may be externally managed are limited by statute. Under these limits, investment management decisions are not necessarily driven by the most cost-effective options available. In light of increasing costs and increasing use of external managers and advisors, changes to these limits may be warranted to further promote the most effective use of resources and to increase accountability over the Investment Board's costs.

We appreciate the courtesy and cooperation extended to us by the Investment Board. A response from the Board's Executive Director follows the appendices.

Respectfully submitted,  
*JANICE MUELLER*  
State Auditor