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☞ Details: Audit Letter Report (August 2005) Use of Outside Legal Counsel, Wisconsin Technical College System

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Joint

(Assembly, Senate or Joint)

Committee on Audit...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



WTCS Legal Fees Testimony

Presented to

The Joint Legislative Audit Committee

Sen. Carol Roessler & Rep. Suzanne Jeskewitz, Co-Chairs

September 13, 2005

Lonnie Benning

Gateway Technical Education Association

Senator Roessler, Representative Jeskewitz, members of the committee, thank you for the opportunity to comment on the audit of technical colleges' outside legal fees.

My name is Lonnie Benning. I am an accounting instructor at Gateway Technical College and a member of the Gateway Technical Education Association, the district's faculty union.

Over the last several years Gateway has faced significant budget constraints that threaten the quality of the college's educational programming. For example, in the 2005-06 academic year, Gateway was forced to make budget reductions of \$1.4 million. This comes on the heels of major reductions in 2004-05. 2005-06 has brought cancellation of classes or class sections, elimination of positions, and reduction of operational expenditures. These budget reductions have had – and will continue to have – a direct impact on the students that my colleagues and I at Gateway interact with every day.

Meanwhile – as noted by the state auditor – Gateway has significantly increased expenditures on outside legal counsel. Legal fees jumped from \$58,300 in 2000-01 to \$308,500 in 2001-02 – that's a year-over-year increase of over 5 times! Gateway's costs remained close to this increased amount throughout 2002-03 and 2003-04, at around \$280,000 each of those years.

The vast majority of these funds have been paid to one law firm. Over the last several years, Gateway has literally paid several hundred thousand dollars to the Milwaukee firm Michael Best & Friedrich.

Unfortunately, the GTEA was not surprised by the auditor's findings. The GTEA has for some time kept a very close eye on spending decisions made by Gateway Technical College, and we have been critical of many of them, including the spending on legal fees.

The GTEA feels the concerns highlighted by the state auditor are indicative of a larger problem at Gateway. The auditor's findings demonstrate the skewed spending priorities of Gateway's leadership.

Gateway's leadership should, to the greatest extent possible, devote district resources to the fulfillment of the technical colleges' primary mission – providing high quality occupational and technical training to the members of communities in the Southeast portion of the state. The taxpayers of the Gateway district deserve financial stewards who leverage available college resources to provide the best possible education to recent high school graduates, returning adult students, displaced workers, and the area's incumbent employees.

However, we don't feel Gateway's leaders have consistently met this test. Several large projects and sizeable expenditures over the last several years have been suspect. The legal costs are but one example, and are inter-connected with the other projects.

The GTEA strongly encourages the committee to continue its review of Gateway's legal expenditures. Fiscal Year 2004-05 and 2005-06 expenditures should be examined. Our own detailed review of Gateway's expenditure reports shows the college spent over \$779,000 on outside legal counsel in the 23 months from July, 2003 through May, 2005. Nearly \$450,000 of that total went to Michael Best & Friedrich. I must note that unlike the figures in Table 1 of the audit report, these data include expenditures for bond counsel.

In addition, the committee should determine specifically what Gateway is using outside legal counsel for. Why did expenditures jump so dramatically in 2001-02? Why did the college need so much additional legal advice beginning in that year?

Thank you for this opportunity to testify. I would be more than happy to answer any questions you have.





Daniel Clancy, President
Wisconsin Technical College System
Testimony before the Joint Legislative Audit Committee
Regarding the Legislative Audit Bureau Letter Report;
Use of Outside Legal Counsel--Wisconsin Technical College System
September 13, 2005

Representative Jeskewitz, Senator Roessler, and members of the Joint Audit Committee, thank-you for your invitation to provide the Wisconsin Technical College System's response to the Legislative Audit Bureau's review of technical college use of outside legal counsel. I would also like to thank State Auditor Janice Mueller and her staff for their professionalism during the review and for providing the districts with practical recommendations for improving their operations. I fully agree with and support the recommendations made by the Audit Bureau.

Since the Audit Bureau letter was issued on August 2, 2005, the System Office has discussed the recommendations with the districts and requested information from each district about their plans for implementing those recommendations. Based on our initial review, it appears the districts intend to implement the recommendations. However, there are also several steps that the System will take to ensure this result.

As noted by the Audit Bureau, their review found that while some cost factors for legal services are outside a district's control, close monitoring of outside legal counsel could reduce overall expenditures. Technical college districts have established, or are in the process of establishing, written procedures to clarify the circumstances in which they will engage outside legal counsel as recommended by the Audit Bureau. It is my expectation that the districts will have established these policies and procedures by the end of the year and will provide them to the System Office.

The Audit Bureau also found that while most technical college districts contract with legal firms based on long-standing relationships with firms that have familiarity with district issues, using a formal request for proposal process enables districts to compare firms to ensure the district received the needed legal expertise at the best rate. The Bureau also noted that the formal RFP process may be cumbersome for districts that make only limited use of outside legal counsel, but that at a minimum all districts could benefit from using more comprehensive annual letters of engagement with their outside legal counsel.

Daniel Clancy, President

Several districts have used or plan to use the formal RFP process for acquiring legal services. As recommended by the Audit Bureau, districts that do not use an RFP process to contract for legal services will develop annual letters of engagement for their outside legal counsel that describe the types of services to be provided and the rates the district will be charged. In order to ensure compliance with this recommendation, I will request that the State Board require the district boards to have a policy that requires either the use of a request for proposal process on a regular basis to obtain outside legal counsel, or the use of annual letters of engagement.

In addition, the Audit Bureau noted, and the System agrees, that careful monitoring of the types and amounts of outside legal services provided under retainer agreements is critical to ensuring the cost-effectiveness of these agreements. I will request that the State Board require district boards that use retainer agreements to have a policy requiring that an annual cost analysis be completed and submitted to the district board which clearly demonstrates that a retainer agreement is the most cost effective manner of obtaining outside legal services.

The most serious issues raised by Audit Bureau review are questions about the propriety of Gateway Technical College's inclusion of fringe benefits such as family health and dental insurance in a retainer agreement for outside legal counsel with a former district employee. As you are aware, the Gateway Board terminated this retainer agreement effective August 25, 2005, but approved a separate severance agreement to provide family health and dental insurance benefits until January 2008, at which time the individual will receive early retirement benefits as a former Gateway technical college employee. Gateway's District Board Chair, Dennis Schultz, and President, Dr. Sam Borden, are here today to explain, in more detail, the Gateway Board's decision.

Before turning it over to them, however, I would like to say that the System Office does not condone or encourage the inclusion of fringe benefits in contracts for services. Although such decisions are the responsibility of the technical college district board, a district's use of outside legal counsel, like all purchases, is subject to System procurement requirements. Accordingly, we intend to modify System policies to prohibit the inclusion of fringe benefits in contracts for services. Future non-compliance with this new policy will result in the reduction of state aid to a district.

Again, on behalf of the WTCS, I'd like to express my appreciation to State Auditor Mueller and her staff for their work on this review to improve the operations of Wisconsin's technical colleges.

I would be happy to answer questions.



Study #VI
My Remarks
~~Thank Dennis~~

Sept 13, 2005

Thank you for the opportunity to speak at this hearing.

I'm Dennis Murphy a 24yr business education and ~~and~~ marketing instructor at Gateway Technical College. I am a member of the Gateway Technical Education Association.

I'm here to thank you for the legal fee audit of the Technical College System.

I am also appearing before you to ask your support for Senator Robson's and

Senator ~~Rep.~~ Grothman's proposal to recommend an audit of Top Administrative Salaries and Benefits for ALL Top Wisconsin ~~System~~ Technical College ^{System} Administrators.

This audit should also include any additional compensation paid to administrators from vendors, contractors, and businesses that serve the Technical Colleges.

I ask the legislature to support Senator Robson's and ~~Rep.~~ ^{Senator} Grothman's proposal.

Thank you

Questioner

Dennis Murphy
Instructor
Gateway Tech College
Sept 13, 2005

Revised

Thank you for the opportunity to speak
At This Hearing

I'm Dennis Murphy a 24 yr business
education and marketing instructor
at Gateway Technical College

I want to thank the committee and
audit bureau for the legal fees audit
of the Wisconsin Technical College System.
As Mr. Nickolai, Gateway's staff attorney,
was paid \$120,000 annually for very part-time
employment; I ask that the committee
recognize the lack of transparency that
has been presented in the employment
compensation/benefits paid in ~~to~~ Mr
Nickolai's ~~situation~~.

I therefore ask that the committee
support Senator Robson's and Senator
Grothman's proposal to recommend an
audit of Top Administrative salaries, benefits,
and any additional compensation paid to
WTCs to administrators from vendors and businesses
that serve the Technical Colleges.

Revised) Dennis Murphy
Instructor Gateway Tech College
Sept 13, 2005
during
hearing
prior to testifying



**Joint Legislative Audit Committee
Public Hearing on Audit Letter Report: Use of Outside Legal Counsel, Wisconsin
Technical College System
Tuesday, September 13, 2005, 10 a.m.
Room 411 South**

Testimony of Senator Judy Robson

To the Co-Chairs and Committee Members: I am unable to testify in person, but I submit this written testimony to repeat the request I made in an August 6th letter to the Co-Chairs for an expanded audit into certain practices in the Wisconsin Technical College System.

The letter was signed by me, Sen. Glenn Grothman, Sen. Bob Wirsch, and Rep. John Lehman.

Specifically, we would like a new audit to examine 1) paid leave for administrators and 2) executive retirement benefits and plans.

At a time when technical colleges are forced to cut class offerings, discontinue or consolidate programs, cut equipment and supplies, and lay off employees, it is imperative that executive benefits and paid leave are subject to the same budget tightening.

We are concerned that students are receiving reduced educational opportunities while top administrators may enjoy benefits that are out of line with the fiscal constraints under which the Technical College System is operating.

Because the technical college system is supported by property taxes, this type of accountability is especially urgent.

Our intent is not to cast suspicion upon technical colleges in Wisconsin. We are sure the audit will find commendable practices by many technical colleges. Rather, it is to ensure that all technical colleges are operating in a fiscally prudent manner when it comes to executive retirement benefits and paid leave.

Thank you for your attention to this request.





Sam E. Borden, Ph.D.
President

September 13, 2005

ADMINISTRATION CENTER

3520 - 30th Avenue
Kenosha, WI 53144-1690
262.564.3300
262.564.3301 FAX/262.564.2816 TTY

AVIATION CENTER

4940 - 88th Avenue
Kenosha, WI 53144-7467
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262.564.3901 FAX

BURLINGTON CAMPUS

380 McCanna Pkwy.
Burlington, WI 53105-3622
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ELKHORN CAMPUS

400 County Road H
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KENOSHA CAMPUS

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COMMUNITY CAMPUS

3520 - 30th Avenue
Kenosha, WI 53144-1690
262.564.2996
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OPEN LEARNING CAMPUS

3520 - 30th Avenue
Kenosha, WI 53144-1690
262.564.2994
262.564.2999 FAX/262.564.2816 TTY

WGTD-FM/91.1

3520 - 30th Avenue
Kenosha, WI 53144-1690
262.564.3800
262.619.6800
262.564.3801 FAX

RACINE CAMPUS

1001 South Main Street
Racine, WI 53403-1582
262.619.6200
262.619.6201 FAX/262.619.6206 TTY

ADVANCED TECHNOLOGY CENTERS

**Center for Advanced
Technology & Innovation (CATI)**
Renaissance Business Park
2320 Renaissance Blvd.
Sturtevant, WI 53177
262.898.7500
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**Center for Bioscience & Integration
of Computer and Telecommunications
Technology (BioCATT)**
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Kenosha, WI 53144-1690
262.564.3600
262.564.3601 FAX

**LakeView Advanced
Technology Center (LATC)**
9449 - 88th Avenue (Highway H)
Pleasant Prairie, WI 53158-2216
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WISCONSIN STATE LEGISLATURE
Joint Legislative Audit Committee
Testimony by Dennis Schultz, Chairperson
Gateway Technical College District Board

Thank you Senator Roessler, Representative Jeskewitz and members of the Joint Legislative Audit Committee for inviting us to speak with you today.

My name is Dennis Schultz, Chair of the Gateway Technical College Board. With me today is Dr. Sam Borden, President of Gateway Technical College.

Today's testimony is very important not only for our Board but to the future of Gateway Technical College and the communities we serve. I am here to assure you that our Board and administration have invested an extensive amount of time and consideration toward the recommendations provided by the Legislative Audit Bureau's report on the Use of Outside Legal Counsel.

We believe this report provides a clear framework in which we can improve our policies and practices at Gateway. While it is important to note that the recommendations are timely the Gateway Board had been actively addressing many of the concerns expressed in the report prior to its release.

Recommendation #1

"We recommend that technical college districts develop written procedures to clarify the circumstances in which they will engage outside legal counsel."

Gateway's Response

The Gateway Board took action on August 25, 2005 and designated specific individuals with authority to access legal services. Those individuals are:

- Gateway Board Chair
- President
- Chief Operating Officer
- Special assistant to the President

An ad hoc committee of the Board was formed to review legal expenses on a quarterly basis and report back to the board. The first meeting is scheduled for September 15, 2005 with additional quarterly meetings tentatively scheduled for October, January and April.

Recommendation #2

"We recommend technical college districts that do not use a request for proposal process develop annual letters of engagement with their outside legal counsel that describe the types of services to be provided and the rates the district will be charged."

Gateway's response

Gateway advertised and solicited proposals in Spring of 2005. A competitive selection process was conducted and an engagement letter with the successful firm was reviewed and approved by the Gateway Board in August of 2005.

Recommendation #3

"We recommend technical college districts ensure the cost-effectiveness of any retainer agreements they enter by carefully monitoring the types and amounts of outside legal services provided under these agreements."

Gateway's response

A number of steps have been taken to ensure cost-effectiveness including the establishment of a Board ad hoc committee to monitor legal expenses and use. In addition, the letter of engagement for services also recognizes that there will be times when the use of local smaller law firms is more cost effective and practical. Therefore, the agreement is not an exclusive agreement. Our law firm also opens a separate matter number for billing purposes and creates a budget when the cost is expected to exceed \$2500; this facilitates tracking of expenses. The heads of the Finance and HR departments will meet with legal counsel quarterly to review case budgets, on-going costs and variances and report back to the Board review committee on legal expenses.

Recommendation #4

"We recommend Gateway Technical College District immediately terminate the retainer agreement negotiated with its former employee and seek a more cost-effective means to meet its needs for outside legal counsel."

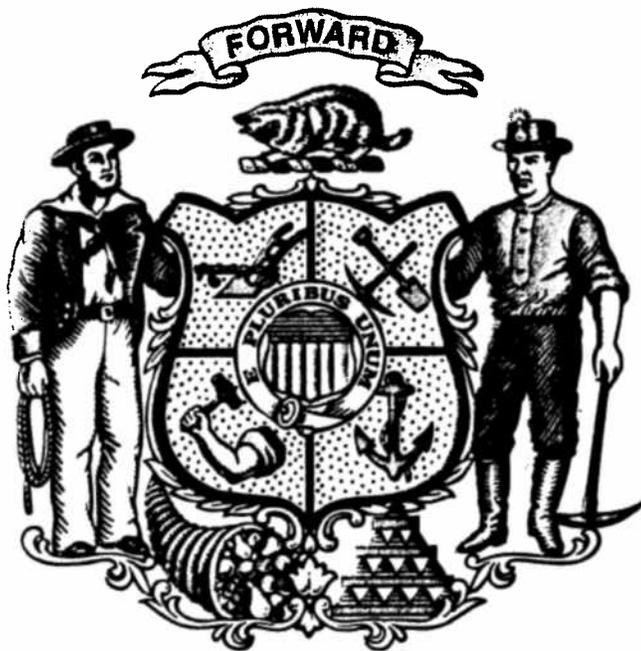
Gateway's Response

The recommendation to immediately terminate a binding contract with a former employee was a difficult and complex issue to manage. While we fully understand the LAB's recommendation and the propriety of the situation there are legal considerations that our Board needed to consider. The college had a binding contractual agreement with a former employee for services as well as benefits. The Board spent a full day in closed session discussing several pending options. There were several considerations; e.g., what legal ramifications and costs for litigation might we face pending dissolving this legal agreement; what legal services did the college benefit from that will be lost as a result of terminating the contract and what will be the fiscal impact on other legal services needs; what is the risk/benefit liability of the college should this end up in court.

As board members we were charged with making the best public fiduciary, legal and ethical decisions we can under the circumstances provided. We strongly believe that we have acted in the best interest of the college and our public.

Upon the recommendation of the administration, our decision took the form of a cooperative agreement with the former employee. It was to immediately end the retainer agreement for legal services and create a severance agreement that includes a release of all further pending litigation in exchange for a "bridge" family medical and dental insurance plan through January 2008 upon which the former employee will be eligible to receive the Gateway family medical and dental insurance provided to retired administrative staff by policy and agreed to by our insurance carrier. Gateway does not intend to at any future point enter into any retainer agreements with regard to legal services.

I hope this helps clarify the position and actions taken by the Gateway Technical College Board and administration.



Use of Outside Legal Counsel Wisconsin Technical College System

Legislative Audit Bureau
September 2005

1

Overview of Outside Legal Counsel

- ◆ 16 Technical College Districts spent \$8.2 million from FY 1999-2000 through FY 2003-04
- ◆ Bond counsel and lobbying services are not included in our analysis
- ◆ Two firms received over 60 percent of all payments in FY 2003-04

2

Technical College Districts with In-House Legal Counsel



3

Expenditures for Outside Legal Counsel

District	2003-04
Blackhawk	\$ 46,100
Chippewa Valley	4,800
Fox Valley	126,100
Gateway	280,300
Lakeshore	61,500
Madison Area	146,000
Mid-State	66,600
Milwaukee Area	480,700
Moraine Park	59,500
Nicolet Area	9,200
Northcentral	113,900
Northeast Wisconsin	71,800
Southwest Wisconsin	24,800
Waukesha County	131,000
Western Wisconsin	25,000
Wisconsin Indianhead	13,600
Total	\$1,660,900

4

Outside Legal Services Provided (FY 2003-04)

Type of Legal Service	Billable Hours	Percentage
Employment Issues	2,604	37.9%
Labor Negotiations	1,135	16.5
Miscellaneous	995	14.5
Property / Real estate	529	7.7
Board Services	515	7.5
Litigation	436	6.4
Immigration Issues	196	2.9
Intellectual Property	149	2.2
Contract Issues	108	1.6
Student Issues	92	1.3
Training	70	1.0
Federal Communications Commission Issues	38	0.5
Total	6,867	100.0%

5

Concerns with Retainer Agreements

- ◆ Milwaukee Area and Gateway have entered into retainer agreements for legal counsel
- ◆ Direct billing would have been less costly than retainer agreements
- ◆ The retainer agreement negotiated by Gateway may result in additional tax liabilities for the District

6

Concerns Specific to the Gateway Retainer Agreement

- ◆ Agreement was negotiated with an attorney while the attorney was employed by the District
- ◆ Agreement included family health, dental, and life insurance beyond the term of the agreement
- ◆ Agreement included a non-performance clause to continue benefit payments regardless of the attorney's performance

7

Use of Outside Legal Counsel Wisconsin Technical College System

Legislative Audit Bureau
September 2005

8





WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Carol Roessler
State Representative Suzanne Jeskewitz

November 2, 2005

Mr. Daniel Clancy, President
Wisconsin Technical College System
345 West Washington Avenue
Madison, Wisconsin 53703

Dear Mr. Clancy:

Thank you for your testimony before the Joint Legislative Audit Committee at its public hearing on the nonpartisan Legislative Audit Bureau's letter report on the Use of Outside Legal Counsel (August 2005). We appreciated your participation in this hearing on September 13, 2005.

In your testimony, you outlined a number of follow-up steps that would either be implemented directly by the staff of the Wisconsin Technical College System, or that you would recommend for consideration by the Wisconsin Technical College System Board. Therefore, we ask that you submit a written report to the Joint Legislative Audit Committee by March 15, 2006, which:

- confirms that System policies have been modified to prohibit the inclusion of fringe benefits in contracts for services issued by any Wisconsin technical college;
- confirms actions taken by the State Board to require that either a request for proposal process or a letter of engagement be used by Wisconsin technical colleges to secure outside legal counsel services;
- confirms actions taken by the State Board to require Wisconsin technical colleges to prepare and submit annual cost analyses confirming the cost-effectiveness of any retainer agreement for outside legal counsel services;
- confirms the submission of policies and procedures used by each Wisconsin technical college to procure outside legal counsel services and reports on the consistency and completeness of these documents; and
- describes the findings and recommendations resulting from your consideration of a System-wide procurement method for outside legal counsel services.

Thank you for your cooperation. We look forward to reviewing your report in March 2006.

Sincerely,

Senator Carol A. Roessler, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

cc: Janice Mueller



no date

(11:30 a.m.) An Evaluation: Use of Outside Legal Counsel (Letter Report)

A. Background

The review was initiated at the request of Joint Legislative Audit Committee co-chairpersons in response to questions about expenditures for outside legal counsel by Milwaukee Area Technical College. The limited-scope review was released on August 2, 2005.

B. Timeline

August 2, the letter report was released.

August 25, the Gateway Technical College Board met and took actions relating to recommendations made by the Legislative Audit Bureau. These actions included:

- forming an ad hoc committee to review outside legal services and costs;
- obtaining cost estimates from outside legal counsel before securing their services; and
- requiring quarterly meetings between counsel and top administrators.

August 31, Gateway Technical College President Sam Borden wrote the co-chairs to describe actions taken to address the report recommendations by the Gateway Technical College Board at its meeting on August 25.

August 31, the co-chairs wrote to the members of the Gateway Technical College Board to express their concerns over the Board's decision to only terminate a portion of the retainer agreement it entered with a former employee for legal counsel services. While the Board's actions terminated payments to the former employee, the co-chairs questioned the Board's decision to continue to provide a former employee with a fringe benefit package that includes family health, dental, and life insurance through January 2008.

C. Testimony Order

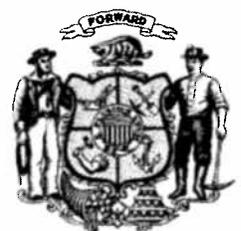
1. LAB (Janice Mueller, State Auditor)
2. Legislators?
3. President Daniel Clancy, WI Technical College System Board
4. President Sam Borden, Gateway Technical College District
5. Chairman Dennis Schultz, Gateway Tech. College District Board
6. President Darnell Cole, Milwaukee Area Tech. College District
7. Public testimony

D. Potential Questions

1. **Clancy** – Given the findings of the report, what role has the State Board taken to revise policies about the use of outside legal counsel?
2. **Borden** – Your August 31st letter outlines a series of steps that Gateway will take to better control its outside legal costs. I expect that by August 31, 2006, you will submit a follow-up report detailing outside legal counsel expenditures and the effectiveness of the cost controls implemented.
3. **Schultz** – Were you on the Board when the unusual retainer agreement with a former employee was negotiated? Please explain the Board's rationale for continuing to provide fringe benefits to the former employee.
4. **Cole** – Milwaukee Area Technical College District expended the greatest amount for outside legal counsel services from FY 1999-2000 through FY 2003-04. However, the District also employs in-house counsel. Please explain how the types of services provided to the District by in-house counsel and outside counsel have varied. Has the district evaluated the extent to which outside legal counsel services are needed given the existence of in-house counsel?
5. **Cole** – You've heard testimony this morning about the steps the Gateway district has put in place to better control outside legal counsel costs. What steps does MATC have in place now to control outside legal counsel costs?



WISCONSIN STATE LEGISLATURE



no date

Letter Report: Use of Outside Legal Counsel – WI Technical College System

- Tech College districts spent \$8.2 million for outside legal counsel FY 1999-00 to FY 2003-04.
- Milwaukee Area, Lakeshore, and Gateway – accounted for 53.4% of that total.
- Recommendation: all districts develop annual letters of engagement with their outside legal counsel that describes the services to be provided and the rates to be changed.
- Milwaukee Area and Gateway – have established retainer agreements which establish fixed amounts to be paid monthly for legal services, without regard to level or type of services rendered. Both result in higher costs if services had been billed directly on an hourly basis.
- \$120,000 salary to former Gateway employee for fewer than 80 hours of legal service per month and must provide health, dental and life insurance to this former employee and his family till January 31, 2008 (spouse would also receive in the event of his death).
- Recommend this retainer be terminated immediately.

Tech College System - Background Info

- 16 technical colleges
- 13 member WI Tech College System Board
- Each tech college serves a geographical area (district)
- 9 member board governs each district (appointed by county board chairpersons or school board presidents, subject to approval of state system board)
- District boards have authority to provide educational programs, levy a property tax, employ staff, and enter into contracts for that district.
- Tech colleges use legal counsel in varying degrees to:
 - Review contracts
 - Represent them in union grievances and litigation
 - Advice to their governing boards
 - Assist in collective bargaining negotiations
- Only 3 districts (Chippewa Valley, Gateway and Milwaukee Area) have also used in-house attorneys for these and other purposes.

Expenditures for outside legal counsel

- For 5 year period, outside legal counsel ranged from \$35,500 for Chippewa valley to nearly \$2.5 million for Milwaukee Area Tech College
- Expenditures for bond issues and lobbying purposes are not included in the totals.
 - Districts report \$195,800
- Lakeshore district allowed employees direct access to outside legal counsel for 2 days a week. When the district reduced both amount of time legal counsel available and the number of employees authorized to consult with counsel, legal expenditures declined 77.2% (from \$269,800 FY 02-03 to \$61,500 in FY 03-04)
- 7 of 16 districts reported occasionally found billing errors, but no significant overcharges were detected.
- 63.4% of all expenditures for outside legal counsel in FY 03-04 were paid to 2 firms.
- Reviewed all FY 03-04 legal invoices for 8 districts
- Average rates for attorneys and paraprofessionals ranged from:
 - \$122 per hour for Madison Area Tech College to
 - \$193 per hour for Milwaukee Area Tech College
- Employment issues represent larges amount of billable hours at 37.9%
- Mid State and Western Wisconsin districts used outside legal counsel for limited occasional board support
- Madison Area and **Moraine Park** used outside legal counsel more actively for support that included reviewing board agendas and minutes and attending board meetings to respond to requests for legal advice.

Procurement of Outside Legal Counsel

- The firms provide legal services to the districts on a regular basis, but because the financial structures of these relationships are not actively reviewed and evaluated by the districts, their cost-effectiveness is difficult to assess.
- Formal request for proposals process would appear to be the best method of identifying law firms that provide comparable legal expertise at the best rates.
 - Waukesha County's request for proposal clearly identifies legal needs...

Retainer Agreements

- Only 2 out of 16 don't pay for outside legal counsel through direct billing on a fee-per-hour basis
 - Milwaukee Area and Gateway districts pay fixed amounts to their legal counsel each month
 - Milwaukee paid
 - \$36,000/month for July – December 2003
 - \$34,200/month for January – July 2004
 - \$27,950/month - Asst General counsel hired to reduce the need for legal counsel so payment renegotiated to amount
 - Gateway paid
 - Retainer from October 2002 to January 2006 – can be extended for up to 2 additional 1-year terms
 - FY 03-04 retainer expenditures for former employee totaled \$136,896 which included a \$10,000 monthly payment to the attorney as well as cost of various fringe benefits.
 - Retainer agreement indicates available for minimum of 80 hours a month.
 - Jan 03 to Dec 04 hours worked was less than stipulated and ranged from 44 to 92 hours a month (hourly rate ranging from \$227 to \$109)
- Milwaukee Area would have paid only \$347,239 under direct billing or 17.6% less than \$421,200 it paid under retainer agreement.
- Gateway under direct billing would have paid 18.7% less (\$111,313 rather than \$136,896)
- Fringe benefits Gateway pays to a former employee raise additional concerns – provides family health, dental and life insurance through January 31, 2008.
- Agreement contains a nonperformance clause that indicates these benefits will remain in effect regardless of whether the attorney performs his contractual obligations.
 - Raises questions about propriety of the agreement and whether state and federal taxing authorities would consider the attorney to be an independent contractor, as the agreement states. If he is found to be an employee and not an independent contractor, there may be Social Security and tax implications for the district.

Recommendations:

- Tech college districts develop written procedures to clarify the circumstances in which they will engage outside legal counsel.
- Tech college districts that do not use a request for proposal process develop annual letters of engagement with their outside legal counsel that describes the types of services to be provided and the rates the district will be charged.
- Tech college districts ensure the cost-effectiveness of any retainer agreements they enter by carefully monitoring the types and amounts of outside legal services provided under these agreements.
- Gateway Tech College immediately terminate the retainer agreement negotiated with its former employee and seek a more cost-effective means to meet its needs for outside legal counsel.

Local district info:

- FVTC is 6th highest (out of 16) in total expenditures for outside legal counsel
- Moraine Park is 10th (out of 16) in total expenditures for outside legal counsel

Kenosha News Article

- Gateway Technical College spent \$779,000 for legal services for past 2 fiscal years
 - \$445,319 to Michael Best and Friedrich (Milwaukee)
 - \$240,000 to William Nickolai (attorney from Kenosha)
 - \$94,000 on 7 other attorneys from around the state
- Roessler and Jeskewitz requested the review of what 16 technical colleges spent on outside legal counsel over the past 5 years
- Waukesha County Tech College spent \$102,637 for 2004 and 2005 fiscal years
 - Most went to Quarles and Brady (Milwaukee)
- Blackhawk Technical College spent \$85,332 on attorney fees during same time
- 2-year bill equates to the following monthly costs:
 - \$33,889 per month for Gateway.
 - \$4,276 per month for Waukesha
 - \$3,555 per month for Blackhawk
- Annual operating budgets:
 - \$104 million – Waukesha
 - \$95 million – Gateway
 - \$26 million – Blackhawk
- Last week Sen. Wirth (and 2 other legislators) asked DOJ to look into possible wrongdoing at Gateway and BioCatt (created by Gateway President Sam Borden in 3/03 to promote computer and business training) – alleged violations of open meetings laws, possible misuse of tax dollars, and potential conflict of interest of people involved in both Gateway and BioCatt.
 - DOJ said they are reviewing documents presented by legislators and would decide soon whether to launch an investigation
- Jim Lewis, President of Teachers Union, said that, “The college is all ready cutting classes for this fall and it is only July. To cut classes for budget reasons and then pay for the legal fees generated by private entities like BioCatt, Inc. is unconscionable.”
- For FY 2004-05 Gateway had an operating budget shortfall of \$1.4 million which was covered by budget cuts, including class cancellations, and a \$990,000 transfer from the school’s reserve fund.
- Gateway has been paying Nickolai, school’s former vice president and legal counsel:
 - \$10,000 per month since November 2002 and will continue to receive the stipend through January 31, 2006.
 - Paid family health and dental insurance till January 2008
- Nickolai does not provide legal advice on labor negotiations (Michael Best and Friedrich), but does provide it on issues like college staffing.
- Nickolai resigned as school’s vice president and entered into a 2 year retainer agreement in November 2002. When Nickolai resigned the VP position was eliminated and Bill Whyte was hired as special assistant to the president, a post that officials said would have more emphasis on human resources
- Gateway Technical College Board was not legally required to approve Nickolai’s agreement, but does approve the monthly payments being sent to him when it approves the school’s bills at the end of each meeting.
- Gateway has 27,422 full and part-time students spread over 5 campuses.
- Almost half (47.2%) of college revenue comes form local tax dollars. The rest comes from state and federal government, tuition and fees and sales and services.



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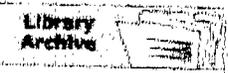
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LOCAL

GTC legal fees soaring: study Technical college pays out plenty during last two years

Corrinne Hess KENOSHA NEWS
Jul 29, 2005

Gateway Technical College has spent more than \$779,000 for legal services over the past two fiscal years, an amount college officials say is necessary and defensible, but that at least one critic calls "unconscionable."

During that time, Gateway has paid a Milwaukee law firm nearly \$446,000 - much of it for work related to the creation of BioCATT Inc., a private, non-profit business - while at the same time paying Kenosha attorney William Nickolai \$240,000 for legal services as per the terms of a retainer agreement signed in November 2002.

The college also spent another \$94,000 on seven other attorneys from different firms in the state.

Records obtained by the News reveal that Gateway paid Michael Best and Friedrich of Milwaukee a total of \$445,319 from July 1, 2003, through May 31, 2005. Those costs likely have climbed in the past two months, as the college is using the firm to assist investigators from the state Technical College System, which has been reviewing the Gateway/BioCATT relationship since April.

BioCATT Inc. was created by Gateway President Sam Borden in March 2003 to promote computer and business training.

A formal review of Gateway's legal service expenses is expected to be made public within the next few weeks by the state Legislative Audit Bureau. Since last November, the bureau has been reviewing the amount of money the state's 16 technical colleges spent on outside legal counsel over the last five years, said Janice Mueller, state auditor.

Mueller said the review was launched at the request of state Sen. Carol Roessler, R-Oshkosh, and state Rep. Suzanne Jeskewitz, R-Menomonee Falls, co-chairwomen of the Joint Legislative Audit Committee.

Jeskewitz said she requested the inquiry in response to questions about what Milwaukee Area Technical College was spending on legal fees.

Milwaukee numbers for the past two fiscal years were not available this week. However, information obtained during a spot check of other state schools reveals that Waukesha County Technical College spent a total of \$102,637 on legal services during fiscal years 2004 and 2005, most of which went to the Milwaukee law firm Quarles and Brady. Blackhawk Technical College in Walworth County spent \$85,332 on attorney fees during that same time period.

For comparison purposes, Waukesha's two-year legal bill equates to \$4,276

per month and Blackhawk's two-year legal costs averaged \$3,555 per month. Gateway's 23-month legal expense total of \$779,448 (July 2003 through May 2005) equates to nearly \$33,889 per month. Gateway expenses for June 2005 - the final month of Fiscal Year 2005 - were not immediately available, which is why the 23-month total was used.

Gateway has an annual operating budget of \$95 million. Waukesha's yearly operating budget is \$104 million and Blackhawk's is \$26 million.

In addition to the inquiry into legal spending at state technical colleges, Gateway may soon be the subject of a state Department of Justice investigation.

Last week, three southeastern Wisconsin legislators, including state Sen. Bob Wirth, D-Pleasant Prairie, asked the Department of Justice to look into possible wrongdoing at Gateway and BioCATT, including alleged violations of open meetings law, the possible misuse of tax dollars and potential conflicts of interest for people involved in both Gateway and BioCATT.

Kelly Kennedy, spokesman for the state Attorney General's office, said Wednesday the Department of Justice is reviewing documents presented by the legislators and would decide soon whether to launch an investigation.

When questioned about Gateway's high legal expenses, Bryan Albrecht, chief operating officer, said the college needs legal counsel for all aspects of its work.

"They provide guidance and advice in the establishment of new programs and contractual arrangements we enter into," Albrecht said. "The legal advice we seek gives us assurance that the direction we are moving in is not only complying with the contracts, but also state and federal regulations."

Albrecht said recent increases in activity at the college have generated more need for legal advice.

But Jim Lewis, president of the Gateway teachers union, said it's irresponsible to be spending so much on legal services when the college is under tight budget constraints.

"The college is already cutting classes for this fall and it is only July," Lewis said. "To cut classes for budget reasons and then pay for the legal fees generated by private entities like BioCATT Inc. is unconscionable. Sam Borden and the Board of Directors of Gateway need to be held accountable for this waste of taxpayer dollars.

"All of the training offered at BioCATT Inc. could and should be offered directly through the college - without the need for expensive lawyers to guide and shelter their finances from the public eye."

For Fiscal Year 2004-05, Gateway had an operating budget shortfall of \$1.4 million, which was covered by budget cuts, including class cancellations, and a \$990,000 transfer from the school's reserve fund.

In addition to the Milwaukee law firm and other area attorneys, Gateway has been paying Nickolai, the school's former vice president and legal counsel, \$10,000 per month since November 2002.

According to a retainer agreement dated Oct. 25, 2002, Nickolai will receive that monthly stipend through Jan. 31, 2006. In addition, his health care benefits will continue for more than a decade after the agreement expires.

Nickolai, 53, will continue receiving family health and dental insurance paid

for by Gateway through January 2008. After that time, he will be eligible for the district family medical insurance, which is provided to the administrative staff, until he is 65 years old.

If Nickolai dies prior to age 65, his wife may retain insurance coverage with the premium paid by Gateway through the date on which he would have turned 65.

According to the agreement, Nickolai does not represent Gateway in the area of labor negotiations. He is also not the attorney used for issues relating to BioCATT. Michael Best and Friedrich handles that work.

Albrecht said Nickolai does, however, provide legal advice on issues involving college staffing.

"He worked for the college since 1985, so he has the knowledge and history of past practices that another law firm would not have," Albrecht said.

Albrecht, who was out of town when interviewed by phone, did not immediately know how often Gateway uses Nickolai's services.

Nickolai was serving as the school's vice president when he resigned from Gateway and entered into the retainer agreement in November 2002. At that time, Borden said Nickolai was leaving his full-time position at the college to build his legal career.

Nickolai, now an attorney with Rizzo and Diersen, has not spoken publicly about the agreement.

"I'm not going to comment on anything," he said Tuesday.

The Gateway Technical College Board was not legally required to approve Nickolai's agreement. The board does, however, approve the monthly payments that are being sent to him when it approves the school's bills at the end of each meeting.

During his tenure at Gateway, Nickolai served in various positions, including interim president from Jan. 1, 1993, to July 1995, when Carole Johnson was hired to head the college.

Johnson resigned in 1998 and Borden was hired in March 1999.

When Nickolai left the college, the vice president position was eliminated and Bill Whyte was hired as special assistant to the president, a post that officials said would have more emphasis on human resources.

Gateway is one of 16 colleges in the Wisconsin Technical College System. With 27,422 full- and part-time students spread over five campuses, Gateway has a budget of \$95 million.

Almost half - 47.2 percent - of the college's revenue comes from local tax dollars. The rest comes from the state and federal government, tuition and fees, and sales and services.

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Original URL: <http://www.jsonline.com/news/metro/aug05/345681.asp>

Gateway urged to end pay deal

Ex-administrator's salary increased after he retired

By MEGAN TWOHEY
mtwohey@journalsentinel.com

Posted: Aug. 2, 2005

The state auditor Tuesday called on Gateway Technical College to stop paying a former administrator more than \$135,000 a year for what is often less than 80 hours a month of legal counsel - a compensation level that exceeds what he made as a full-time employee.

The agreement with William Nickolai, who retired in November 2002 as Gateway's executive vice president, was discovered during a review of the use of outside legal counsel by Wisconsin's 16 technical colleges.

In a report of her findings released Tuesday, state Auditor Janice Mueller expressed some general concerns about how the technical colleges went about dishing out \$8.2 million for outside legal services over the course of five years.

But Mueller highlighted Gateway's agreement as an arrangement that should end immediately. Mueller said the agreement raised questions of financial waste, impropriety and possible illegal activity. She said the college should "seek a more cost-effective means to meet its needs for outside legal counsel."

Gateway operates five campuses in Racine, Kenosha and Walworth counties.

Under the agreement, which stretches from the October 2002 to February 2006, Nickolai is getting paid \$136,896 a year in salary and benefits to provide legal services to the college for a "minimum of 80 hours per month." When he was executive vice president, he earned \$135,568 and worked 160 hours per month.

Official: Deal was 'fair'

Bryan Albrecht, the college's chief operating officer, said Gateway settled on Nickolai's post-retirement compensation level after determining that it was comparable to what other private attorneys would charge. Nickolai had been providing legal counsel to Gateway when he was executive vice president. When he retired, he went into private practice, and Gateway did not hire another in-house replacement.

"We felt it was a fair rate from a private sector business, which we knew he was moving into," Albrecht said.

But according to the audit, Nickolai, who did not return a call seeking comment, has often worked less than 80 hours a month. In 2004, the most he worked was 73 hours a month; in 2003, he worked as little as 44 hours per month. That meant his hourly rate, not including the cost of benefits, has sometimes soared to as much as \$227, the audit said.

Mueller determined that Gateway would have saved \$25,583 in fiscal year 2003-'04 had it used the direct billing arrangement used by almost all the other technical colleges, in which a firm is paid by the hour.

GTC Probe

By the Numbers

\$136,896: The amount, in salary and benefits, that Gateway Technical College is paying a former vice president, William Nickolai, for working 80 hours per month or less to provide outside legal services to the college.

\$135,568: The amount that Nickolai earned when he was vice president, when he worked at least 160 hours per month.

Source: State auditor

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 [7/21/05: Lawmakers call for Gateway probe](#)

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Also troubling to Mueller are the health, dental and life insurance benefits Nickolai continues to receive.

Under the retainer agreement, he and his family will receive these benefits through January 2008, two years after his legal service to the campus is scheduled to end. A clause in the agreement allows the benefits to remain in effect regardless of whether Nickolai continues to provide legal services. In the event that Nickolai dies, his spouse will continue to receive the benefits.

Albrecht said Gateway included the benefits in the retainer agreement because it extends benefits to all of its employees after they retire.

But Mueller found no other cases of technical colleges who were paying benefits to outside attorneys. The Milwaukee Area Technical College is the only other technical college in Wisconsin that uses retainer agreements. It pays fixed monthly amounts to Michael Best & Friedrich that have ranged between \$27,950 and \$36,000 in recent years. But none of the attorneys at the firm are paid benefits.

As Mueller sees it, Gateway's agreement with Nickolai is suspect.

"The inclusion of such benefits in a retainer agreement raises serious questions about the propriety of the agreement, and whether state and federal taxing authorities would consider the attorney to be an independent contractor, as the agreement states," she wrote.

State Sen. Carol A. Roessler (R-Oshkosh) and Rep. Suzanne Jeskewitz (R-Menomonee Falls), co-chairs of the Joint Legislative Audit Committee, asked Mueller to conduct the audit in November. Roessler said employees in the technical college system had encouraged lawmakers to look into its use of outside legal counsel.

She said the findings about Gateway were "troubling" and agreed that its contract with Nickolai should end right away.

Sen. Bob Wirch (D-Pleasant Prairie), who has been raising concerns in recent months about other Gateway expenditures, agreed.

The retainer agreement was approved by the Gateway Technical College Board. The board's president, Dennis Schultz, said Tuesday that members had agreed there was a need for Gateway to continue receiving legal counsel after Nickolai retired. But he said he didn't know enough about the retainer agreement to defend its details. He said the board would review the agreement and Mueller's recommendations at its Aug. 25 meeting.

Brent Smith, president of the Wisconsin Technical College System Board, which governs all the technical colleges, said his board would examine the agreement, too.

"It does seem like an unusual situation," he said.

From the Aug. 3, 2005, editions of the Milwaukee Journal Sentinel
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Auditors: Tech college pays attorney too much

By **RYAN J. FOLEY**
Associated Press Writer

MADISON, Wis. (AP) -- Gateway Technical College in Kenosha should end an agreement that pays a former emp annually plus benefits for legal work that amounts to less than 20 hours per week, state auditors recommended T

Gateway negotiated the retainer agreement before Bill Nickolai retired as executive vice president and legal coun college in 2002, according to a report released by the Legislative Audit Bureau. Gateway paid Nickolai more in sal benefits in the fiscal year that ended June 30, 2004 for part-time legal work than when he was a full-time employe found.

Bryan Albrecht, chief operating officer of Gateway, said the college's board will discuss at a meeting later this mor terminate the deal. He said the college has already told Nickolai his contract will not be renewed when it expires ir

Retainer agreements with outside lawyers by Gateway and Milwaukee Area Technical College cost taxpayers mor hiring lawyers at an hourly rate, the audit found.

They were the only two of the state's 16 technical college districts that had retainer agreements with lawyers, according to the audit, which found the districts combined spent \$8.2 million hiring outside legal counsel in the past five years.

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Leaders of the Legislative Audit Committee who requested the audit said they were troubled by the retainer agreements, and planned a hearing in September.

In Gateway's case, the deal calls for Nickolai to provide a range of legal services, including reviewing contracts and helping with legal issues involving students. Auditors, recommending the school immediately terminate the agreement, raised a number of concerns:

- Nickolai received \$10,000 monthly payments every month in 2004 even though he worked less than the minimum 80 hours called for in the contract. In at least one month, he worked as few as 44 hours.

- The agreement requires Gateway to provide family health, dental and life insurance for Nickolai through January 31, 2008, even though the contract will expire two years earlier. Should Nickolai die before he turns 65, his spouse would continue to get those benefi

"The inclusion of such benefits in a retainer agreement raises serious questions about the propriety of the agreem have future tax implications for Gateway," State Auditor Janice Mueller warned Tuesday in a letter to lawmakers.

She said federal and state taxing agencies may consider Nickolai an employee, not an independent contractor, ar school to pay taxes accordingly.

- The deal contains a clause that indicates the benefits will remain in effect "regardless of whether the attorney pe contractual obligations."

- The retainer agreement cost Gateway \$136,896 in salary and benefits in the year that ended June 30, 2004. Dur year at Gateway full-time, Nickolai earned \$135,568 in salary and benefits.

Albrecht, the Gateway official, said the agreement made sense when Nickolai retired in 2002 "to provide consist services to the college" as the school underwent an administrative reorganization that eliminated the legal course

said Nikolai's workload later diminished.

Albrecht acknowledged it was confusing why the contract included benefits that would be available to Nikolai as an employee of the college. But he said Gateway continued to consider Nikolai a contractor, not an employee.

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Tech college pays \$120,000 retainer Gets less than 80 hours of work a month for that

By Anita Weier and Aaron Nathans
August 3, 2005

An audit of the use of outside legal counsel by Wisconsin's 16 technical college districts has found that a former employee of Kenosha-based Gateway Technical College is being paid \$120,000 a year plus fringe benefits to provide fewer than 80 hours of legal services per month.

The retainer arrangement with retired former counsel William Nickolai also includes health, dental and life insurance benefits for his family until Jan. 31, 2008 - two years beyond the length of the contract - and provision of those benefits to his spouse if he dies.

Additionally, the agreement - which began in October 2002 and was to expire on Jan. 31, 2006 - contains a non-performance clause indicating that benefits will continue to be paid whether or not the attorney performs his contractual obligations, according to the audit.

"The inclusion of such benefits in a retainer agreement raises serious questions about the propriety of the agreement and may have future tax implications for Gateway," state Auditor Janice Mueller said in a letter accompanying the audit. "We have recommended that the retainer be terminated immediately."

Bryan Albrecht, chief academic officer and chief operating officer for Gateway, defended the arrangement but said in a phone interview Tuesday that Nickolai was told last week that his contract will not be renewed. Nickolai could not be reached for comment Tuesday afternoon.

Lawmakers expressed concern and outrage over the results of the audit, which came several weeks after a controversy broke out over the widespread use of "backup positions" for University of Wisconsin executives.

"The technical college system is lucky this didn't come out until the budget was signed," said Sen. Glenn Grothman, R-West Bend. "It's sad. I had associated this type of irresponsibility with the university system."

And Rep. Suzanne Jeskewitz, co-chairwoman of the Joint Legislative Audit Committee, said in a written statement: "I think it's ludicrous to place attorneys on contract retainers that pay as much as \$36,000 per month just so they can be available if needed. I am convinced this is not

the best use of the taxpayers' money and at a minimum deserves close scrutiny."

The audit noted that the retainer agreement provided Nickolai with slightly more money than he was paid for legal services while he was a district employee. During his last year as a full-time employee, he spent about half of his time on district-related legal work, also serving in an executive position, and was paid \$135,568 in salary and fringe benefits. The retainer agreement, which was negotiated while he was an employee, paid him \$136,896 in fiscal year 2003-04 for legal services on a half-time basis.

"I have reviewed the report and our board and administration are confident we can respond to the recommendations. The specific issues related to Mr. Nickolai are under consideration," Albrecht said.

The board's next meeting is set for Aug. 18.

"The intent of the agreement was to continue using Mr. Nickolai in a legal capacity because of his past history. We wanted to maintain continuity as far as legal advice. He has provided a variety of services in relation to the FCC communications for our radio station and guidance in relationship to federal projects and local personnel issues," Albrecht said.

"We restructured the administration of the college and it was deemed that the legal service could be provided best externally. It would be a reduction of costs, and services needed were becoming more diverse. We wanted to be able to seek legal advice in the best possible alignment with the services we need."

Albrecht said it was a mutual decision that Nickolai - who once served as interim president of the college while a new president was sought - would retire.

The auditors also recommended the technical college districts ensure the cost-effectiveness of any retainer agreements they enter by monitoring the types and amounts of outside legal services provided.

Wisconsin Technical College System President Dan Clancy said the system board would discuss the audit. He stressed that the retainer contract was a local decision, and the system board had no authority over it.

The Legislative Audit Bureau "has raised some serious questions about the way it's set up," Clancy said of the Nickolai retainer agreement.

For the colleges as a whole, the audit found that expenditures for legal counsel ranged from \$35,500 for Chippewa Valley Technical College during the five-year period audited to nearly \$2.5 million for Milwaukee Area Technical College. That college also has a retainer agreement, which the audit said was 17.6 percent more expensive than direct billing would have been.

Madison Area Technical College paid \$869,500 during the period, which covered the 1999-2000 to 2003-04 fiscal years.

Madison's average hourly rate was \$122, substantially below Milwaukee at \$193 and Gateway at \$156.

The totals did not include legal opinions for bond issues or lobbying.

"We recommend that technical college districts develop written procedures to clarify the circumstances in which they will engage outside legal counsel," the audit advised.

"A formal request for proposals process would appear to be the best method of identifying law firms that can provide comparable legal expertise at the best rates."

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Retired Gateway attorney to lose salary

College to continue paying health insurance

By ALICE L. CHANG
achang@journalsentinel.com

Posted: Aug. 25, 2005

Sturtevant - The Gateway Technical College District Board decided Thursday to terminate a contract with a former administrator who was being paid more than \$135,000 a year for often working fewer than 80 hours a month - but Gateway will still pay for health and dental insurance for the former employee and his family through January 2008.

The board's decision comes in response to a recently released state audit report, which called for the college to find a "more cost-effective means" to employ outside legal counsel.

"We welcome the input received from the Legislative Audit Bureau and we believe our decisions today will strengthen college operations to benefit the district as a whole," board chairman Dennis Schultz said in a written statement.

The former employee, William Nickolai, was an executive vice president who retired in November 2002. Before retiring, he was paid \$135,568 a year for full-time work. After retiring, his annual salary went up to \$136,896 while he worked part-time as outside legal counsel.

Bill Whyte, special assistant to the president, said during Thursday's meeting that the college saved money by using Nickolai's services rather than hiring an in-house legal representative, which would have cost \$213,000 a year.

The board tightened up the use of outside legal counsel by:

- Creating an ad hoc committee to review legal services and costs as necessary.
- Requiring cost estimates from outside legal counsel when projects exceed \$2,500.
- Requiring quarterly meetings between outside legal counsel and top administrators to review budgeting.

The outside legal counsel issue is just one of several areas of concern for the school.

The state's attorney general's office and technical college system board have begun separate investigations of the college and the operation of its advanced technology centers, called CATI and BioCATT.

State Rep. John Lehman (D-Racine), one of three state legislators who called for the probe, said, "My interest has been in the openness of decision-making for the public and whether it's appropriate for the tech centers to be getting the kind of resources they're getting if it's at the detriment of regular programs at Gateway."

From the Aug. 26, 2005, editions of the Milwaukee Journal Sentinel
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