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Details: Miscellaneous correspondence.
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WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

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**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)



JIM DOYLE
GOVERNOR
STATE OF WISCONSIN

February 11, 2009

The Honorable Russell Decker
Senate Majority Leader
211 South, State Capitol
Madison, WI 53702

The Honorable Mark Miller, Co-Chair
Joint Committee on Finance
317 East, State Capitol
Madison, WI 53702

The Honorable Michael Sheridan
Assembly Speaker
211 West, State Capitol
Madison, WI 53702

The Honorable Mark Pocan, Co-Chair
Joint Committee on Finance
309 East, State Capitol
Madison, WI 53702

Dear Senator Decker, Speaker Sheridan, Senator Miller and Representative Pocan:

Our nation faces a severe economic downturn. Millions of jobs have been lost, the stock market has dropped precipitously from its peak and consumers have cut back on spending. Current economic conditions are having a dramatic affect on state revenue forecasts, with nearly every state forecasting large budget deficits in this year and the next two years.

Wisconsin is also seriously affected by the economic downturn. Department of Revenue and Legislative Fiscal Bureau forecasts have projected declining revenue in this year and the next. The November 20, 2008, budget deficit forecast of \$5.4 billion by June 30, 2011, has now increased to more than \$5.7 billion. This figure represents over 18 percent of general fund appropriations.

As a first step toward investing in Wisconsin's economy and improving the state's finances, we have been working together to develop state economic stimulus and budget repair legislation. These discussions have required each of us to make compromises toward addressing these challenges. This compromise legislation includes the following provisions:

- Authorize the Department of Administration secretary to lapse or transfer \$125 million to the general fund, including \$500,000 from the Legislature, between fiscal years 2008-09 and 2010-11. This provision will be used to reduce state operations and grant appropriations by \$38 million this year. The bill prohibits any reductions to highway construction activities associated with this lapse authority.
- Secure \$900 million in new federal revenues over the biennium to support a Medicaid rate increase for hospitals through implementation of an assessment on

hospital revenues. The new federal revenues will help to reduce state taxpayer support for Medicaid by over \$300 million GPR in state fiscal years 2008-09 through 2010-11. In addition, provide targeted supplemental payments to rural hospitals, adult level 1 trauma centers and pay-for-performance initiatives.

- Ensure clear legislative oversight and rapid deployment of federal stimulus funding in support of job creation:
 - Authorize the first \$300 million of federal economic stimulus funds for transportation projects. The bill includes a specific list of projects that the Department of Transportation has identified as "shovel-ready" for implementation using federal stimulus funding. Additional federal stimulus funds for transportation that are not contained in a bill introduced at the request of the Governor will be reviewed and approved by the Joint Committee on Finance through an expedited process.
 - Create a process for expedited review by the Joint Committee on Finance of plans for allocating all other federal stimulus funding not related to transportation and not included in legislation introduced at the request of the Governor.
- Foster job creation and entrepreneurial development through new and upgraded tax credits:
 - Enhance the Accelerate Wisconsin tax credit for angel and venture investors in support of start-up technology companies. Increase the aggregate per business cap from \$4 million to \$8 million and the cap on angel investments from \$1 million to \$4 million; delete the per angel investment cap for an individual business; expand eligibility to a broad array of leading edge technologies and related processes, including clean energy and nanotechnology; allocate \$500,000 annually for investments in nanotechnology businesses; allow a one-time transfer of early stage seed credits to attract a much larger group of potential investors; improve utilization of the tax credits by authorizing the Department of Commerce to prequalify the amount of creditable investment allowed in each business; allow early stage seed credits to be claimed against gross premiums tax; and allow more of the credits to be claimed in the year the investment is made. Starting January 1, 2011, increase the angel and early stage seed investment tax credit annual allocations by \$12.5 million each.
 - Consolidate five existing tax credit programs (development zones, enterprise development zones, agricultural development zones, technology zones and airport development zones), increasing the ability to target those credits to businesses that create jobs, invest capital, provide training and retraining to new and incumbent workers, and retain jobs in companies with corporate headquarters in Wisconsin. Recognizing the need to support economic growth in rural areas and for small businesses, the bill allocates a portion of the credits for these purposes.
 - Encourage the continued growth of Wisconsin's agricultural economy through the creation of two new income tax credits. First, the dairy cooperative investment credit will allow members of a dairy cooperative to claim a credit for 10 percent of the amount paid for dairy manufacturing modernization or

expansion expenses. Second, the meat processing facility credit will allow meat processors to claim a credit for 10 percent of the amount paid for meat processing modernization or expansion costs.

- Protect Main Street businesses by adopting the Main Street Equity Act, which accepts standards from the national Streamlined Sales and Use Tax Project to simplify sales and use tax provisions among state and local governments. The standards also clarify that all prewritten computer software packages are subject to the sales tax. Adoption of this national model legislation will increase general fund tax revenues by \$9.4 million in fiscal year 2008-09 and \$61.3 million over the 2009-11 biennium. In addition, further protect Main Street businesses by extending the sales tax to digital personal property if the related tangible personal property is subject to the sales and use tax. Incorporating digital products into the Main Street Equity Act provisions is expected to increase general fund tax revenues by \$10.9 million over the 2009-11 biennium.
- Authorize combined reporting of corporate income. Combined reporting treats corporations and their divisions, subsidiaries and affiliates as a single entity for corporate income tax purposes. This is expected to increase general fund tax revenues by \$27.7 million in fiscal year 2008-09 and by \$187.3 million over the 2009-11 biennium.
- Provide \$2.6 million GPR in fiscal year 2008-09 to provide job training and retraining programs, including training in green building and the installation of alternative energy systems.
- Provide \$1 million GPR in fiscal year 2008-09 to increase Workforce Advancement Training Grants awarded by the Wisconsin Technical College System. This program enables small, medium and large businesses to receive short-term, customized training services from Wisconsin's technical colleges providing the state's workers and employers with the competitive edge they need to be successful in a global economy. The additional funding will be allocated to advanced manufacturing skills training with a priority to welding.
- Increase the fiscal year 2008-09 allocation under the Temporary Assistance for Needy Families (TANF) program for direct child care services by \$20,384,400 to address a projected shortfall in funding for state child care subsidies. Fiscal year 2008-09 child care subsidies are expected to exceed original 2007-09 biennial budget estimates by an estimated 6 percent.
- Increase the appropriation for federal block grant aids received under the Temporary Assistance for Needy Families (TANF) program by \$47,175,000 in fiscal year 2008-09 to reflect the receipt of a TANF contingency fund supplemental grant.
- Allocate \$500,000 GPR in fiscal year 2008-09 to the Department of Children and Families to implement a system to monitor child care attendance in licensed child care centers. Significant concerns have been identified regarding reimbursement of child care providers for children who are not receiving child care or who have parents that may not be legitimately employed.
- Provide \$337,500 FED in fiscal year 2008-09 to fund an additional 5.0 FTE positions for the program integrity unit in the Department of Children and

Families. This unit is responsible for ensuring that parents and providers receiving state child care subsidies comply with state and federal statutes and rules. In addition, the unit monitors billing and attendance activity and implements overpayment prevention strategies. Additional resources are needed to expand and enhance state oversight of the subsidy program.

- Increase the allocation under the Temporary Assistance for Needy Families (TANF) program for emergency assistance grants by \$1 million in fiscal year 2008-09. Emergency assistance grants are available to needy families with dependent children to help keep their home. To be eligible, families must be facing impending or actual homelessness related to the inability to make mortgage, rent or utility payments; or due to a fire, flood or other natural disaster. The current economic downturn increases the likelihood that more families will face a homelessness crisis.
- Expand access to capital for scientific, medical and technological research by allowing the Wisconsin Health and Educational Facilities Authority to issue federal tax-free bonds to finance projects and outstanding debt related to research facilities.
- Increase funding for the Medicaid program to offset higher than projected increases in caseloads and to fund a prior period cost settlement for the University of Wisconsin Hospitals and Clinics.
- Provide a \$200,000 grant in fiscal year 2008-09 for statewide foreclosure education and assistance to tenants.
- Ensure protections for tenants of properties under foreclosure by requiring plaintiffs in a residential rental property foreclosure to provide tenants with notices of foreclosure actions and providing tenants with the ability to recover damages if notices are not given. Provide tenants with the ability to retain residency for up to two months after the sale of a foreclosed property.
- Authorize the Wisconsin Housing and Economic Development Authority to issue bonds and make loans for refinancing qualified subprime loans for single-family residential mortgage loans made after December 31, 2001, and before January 1, 2008.
- Modify the loan program administered by the Board of Commissioners of Public Lands to expand the prepayment period for local government borrowers; increase access to funds for counties wishing to improve energy efficiency; and clarify conditions under which a school district may receive short-term loans.
- Increase the regulation of foreclosure reconveyances, foreclosure purchasers and foreclosure consultants. Specify penalties for violation of provisions by foreclosure purchasers, authorize courts to order punitive damages and allow the foreclosed homeowner to bring action for damages. Specify actions by foreclosure consultants that are violations, and the forfeiture and fine amounts for violations.
- Comply with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 by conforming to certain nationwide standards for mortgage loan originators, including their registration through the National Mortgage Licensing System and

Registry. In addition, establish minimum annual fees for loan originators and loan solicitors.

- Provide \$4 million GPR to the Wisconsin Housing and Economic Development Authority to establish a loan loss reserve fund that will leverage private investment in a single-family residential first-mortgage refinancing program, including refinancing of single-family residential first mortgages.
- Suspend the general fund statutory balance requirements for fiscal year 2008-09 in order to adopt the economic stimulus legislation and reflect anticipated action in the biennial budget bill that will address the remaining deficit.

Taken together, the \$125 million cut in state spending, revenue enhancements and investments proposed in this bill will reduce the estimated general fund deficit by over \$700 million by the end of the 2009-11 biennium. Provisions in the bill will reduce the general fund deficit in the current year (fiscal year 2008-09) by approximately \$167 million.

The following table demonstrates how the proposed economic stimulus legislation will improve the general fund condition for fiscal year 2008-09, beginning with the deficit identified in the January 29, 2009, Legislative Fiscal Bureau memo regarding general fund revenue and expenditure reestimates. The remaining deficit for fiscal year 2008-09 and the 2009-11 biennium will be addressed in my budget recommendations for the 2009-11 biennium.

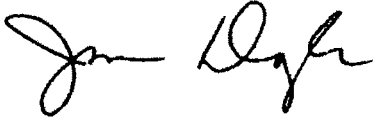
Fiscal Year 2008-09 General Fund Impact
(\$ in millions)

	<u>2008-09</u>
Estimated June 30, 2009, Balance (Legislative Fiscal Bureau)	-\$593.8
Current Law Required Ending Balance	<u>65.0</u>
Shortfall (excluding statutory balance)	-\$528.8
State Agency Lapses and Transfers (amount allocated to FY09)	\$38.0
Hospital Assessment	78.5
Combined Reporting	27.7
Temporary Assistance for Needy Families (TANF) Provisions	22.5
Main Street Equity Act and Related Provisions	9.4
Worker Training-Related Programs	-3.6
Medicaid Changes and Other Transfers	-1.0
Housing-Related Programs	<u>-4.2</u>
Total of Actions	\$167.3
Remaining FY09 Balance (excluding statutory balance)	-\$361.5

I look forward to rapid passage of this legislation.

Thank you for consideration of this important measure.

Sincerely,

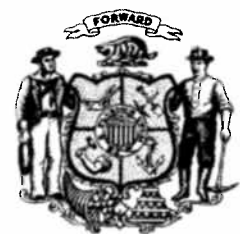
A handwritten signature in black ink, appearing to read "Jim Doyle". The signature is fluid and cursive, with the first name "Jim" being more prominent than the last name "Doyle".

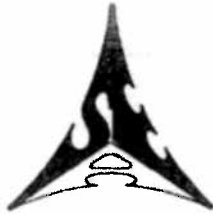
Jim Doyle
Governor

cc: Members, Joint Committee on Finance
Michael L. Morgan, Secretary of Administration
Bob Lang, Legislative Fiscal Bureau
David Schmiedicke, State Budget Director



WISCONSIN STATE LEGISLATURE





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March 20, 2009

Joint Committee for Review of Administrative Rules
Sen. Jim Holperin, Co-Chair
Room 409 South State Capitol
Madison, WI 53707-7882

Dear Sen. Holperin:

The State Engineering Association is pleased to share with you and the committee the enclosed report. It's the result of a new study commissioned by the Association and conducted by an emeritus University of Wisconsin – Milwaukee professor. The study analyzes Wisconsin Act 89 (2006) and its application by state agencies, the Department of Transportation in particular.

As you may recall, Act 89 was intended to lend transparency and accountability to government contracting. It basically requires state agencies to perform a cost-benefit analysis before approving contracts worth more than \$25,000. This report is timely given that the governor's current budget would kill this law, a move our Association opposes.

Building on the results of earlier studies – including one by the DOT itself – this study provides further statistical evidence that contracting out costs the state more than using in-house staff. The study also makes the point that the state inaccurately underestimates both the cost of allowing consultant staffs to use state facilities and the cost of necessary state oversight of consultant work.

Since the study was completed, state agencies have submitted more cost-benefit analysis base sheets as required by law. We enclose one example, which shows that outsourcing expense disparities continue, and in some cases are getting worse.

The study makes a number of recommendations, among them: a state audit of how agencies have implemented the study by administrative rule, and improvements to the law so that agencies will review contracted projects after completion to assess actual, not just projected, costs.

We hope that this study will serve as a further guide to the Legislature as it works to strengthen transparent and cost-effective government. We believe this study strongly suggests that policymakers should not only protect Act 89, but should review current administrative rules that are too weak to carry out the law's intent.

Sincerely,

Mark Klipstein
President

attachments;

Act 89 report

A report to the State Engineering Association

Edward Beimborn

February 15, 2009

Summary

The purpose of this report is to conduct an analysis of the effectiveness and compliance of state agencies with State of Wisconsin Act 89, which requires a cost-benefit analysis when consultant services are used rather than regular state staff. The report compares outsourcing vs. use of state staff for projects and provides a review of state agency benefit-cost reports to see if they are being done to meet the stated intent of Act 89.

This report is sponsored by the State Engineering Association, a bargaining unit of state employees that represents engineers and associated disciplines in several state agencies.

The report includes a description of work done elsewhere, a description of reasons for using consultants and analysis of reports by state agencies submitted to comply with Act 89. For this report, over 350 benefit cost spreadsheets by Wisconsin Department of Transportation were analyzed. Less than 10 reports from other agencies were available for analysis. The reports compare estimated costs before a project starts and no comparisons are made of actual costs once a project is completed. In general, the reports comply with the requirements of Act 89.

An analysis of reports submitted indicates:

- The use of consultants does not save money for the state. Consultant use led to an increase of approximately \$5 million for 362 WisDOT projects examined.
- For design projects use of consultants increases estimated costs in all cases according to the WisDOT procedure.
- For construction projects, use of consultants increases WisDOT costs overall, primarily because of project oversight. Nonetheless, use of consultants can save money in certain categories – for example with construction inspection where private costs can be less than at the state.
- Project oversight appears to be poorly understood and poorly estimated by state staff in the Act 89 spreadsheets (WisDOT).
- In many cases, consultants were used because of lack of state staff to do the project.
- Other agency benefit cost analyses follow different procedures, but show similar results.
- Excessive use of consultants can result in the loss of state control over their projects, can have long term effects on the future engineering workforce in the state and can lead to poor preparation of state staff to manage projects.

Based on this analysis, it is recommended that the Legislative Audit Bureau conduct a state audit of the costs and performance of specific projects. This audit should specifically look at actual costs of projects after project completion

and estimate what the costs would have been if the project were done in-house. The audit should look at all state agencies subject to Act 89 and determine if proper procedures are applied in each situation and if the intent of the law is being followed. In addition, the audit should examine major differences in oversight time estimates between projects and the accounting process and the practice of using consultant staff located on site in state facilities.

The state should also examine how their staff is trained to select and manage consultants; address the questions of how internal projects can be used to build up in-house expertise to oversee projects in the future; and how outsourcing affects student summer jobs and internships.

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Introduction

The purpose of this report is to conduct an analysis of the effectiveness and compliance of state agencies with State of Wisconsin Act 89, which requires a cost-benefit analysis of the use of consultant services rather than regular state staff. The report compares outsourcing vs. use of state staff for projects and provides a review of state agency benefit-cost reports to see if they are being done to meet the stated intent of Act 89.

This report is sponsored by the State Engineering Association, a bargaining unit of state employees that represents engineers and associated disciplines in several state agencies.

Disclaimer: This report is based on reports to the state for consultant and WDOT costs, not actual costs, but estimates. Data used in this analysis primarily uses information from Wisconsin Department of Transportation (WisDOT) projects with limited information from other state agencies. An overall analysis of experience on a wide variety of projects can overlook specific issues on a specific project and affect the conclusions made.

About the author: Dr. Edward Beimborn was a Professor of Civil Engineering at the University of Wisconsin-Milwaukee from 1968-2005. He taught courses in Transportation Engineering, Municipal Engineering and Transportation Planning and was the Director of the Center for Urban Transportation Studies while at UWM. He also was a visiting professor/scholar at Oxford University in England, at the Technion in Israel and at the University of California at Berkeley. He has served as the chair of the transportation planning council of the Institute of Transportation Engineers, chair of the Transit Planning and Development Committee of the Transportation Research Board and has been an elected supervisor in the Town of Cedarburg, Wisconsin. Among the awards he has received is Engineer of the Year from the Engineers and Scientists of Milwaukee and a distinguished service award from the Wisconsin Section of the Institute of Transportation Engineers.

Dr. Beimborn has a Bachelor's degree in Civil Engineering from the University of Wisconsin-Madison and Master's and Doctorate degrees in Civil Engineering from Northwestern University. He is a registered professional engineer in the State of Wisconsin.

Background

Act 89

Act 89 was passed in January, 2006 and became law on January 20, 2006. It requires that a cost-benefit analysis be conducted whenever the state considers a contract for services over \$25,000. It defines a cost-benefit analysis as:

“a comprehensive study to identify and compare total cost, quality, technical expertise, and timeliness of a service performed by state employees and resources with the total cost, quality, technical expertise, and timeliness of the same service obtained by means of a contract for contractual services”¹

The act asks for uniform procedures for this analysis in section 3 and lays out the content of the study in section 4. The study should contain a description of the services to be procured, justification of need, justification for not using other state agencies, the scope of work, and why competitive bidding was not used. The law also requires an annual report of consulting projects.

The law has been implemented through administrative rules and guidelines. In the case of the Department of Transportation (WisDOT), these are described in the Facilities Development Manual (Part 8 – 1 – 5) and Rule Trans 515. WisDOT supplies spreadsheets for the analysis for different project types.

Why use Consultants?

There are several reasons why consultants are used. Consultants are hired if they have a unique technical expertise not found in an agency or in a district office and it is not necessary to maintain that skill (for example, lift bridges, safety audits, roundabout design). Consultants are also used if there is insufficient staff to do the job internally, to level out internal workloads or to provide an independent opinion when there is a potential conflict of interest if internal staff was used.

At the same time, there is an argument politically that the private sector is more efficient than state staff in doing work because of competition among consulting firms and that this can reduce costs. Arguments are also made that outsourcing avoids long term commitments to excessive staff size.

An additional argument of some is that the use of consultants can give the state more control of the work and that it is easier to dismiss the consultant for poor performance. Furthermore some feel that state staff is not motivated to take on challenging jobs and that the state can get more responsive work from outside sources.

It is also felt by some that the state needs to work harder to train its people to effectively manage consultant work and that state staff needs to move in the direction of supervising others to do the work, rather than doing it themselves.

There are arguments that work should be done by internal staff. Staff has a long term commitment to the agency and develops unique experience and internal knowledge that is essential to understand the problems the agency faces. For example, staff may have a detailed knowledge of local soil conditions, acquired over years of experience that is essential for design of foundations and pavements. Without such knowledge, costly mistakes could be made that would be difficult to remedy.

In addition, excessive use of consultants can lead to a loss of control over the agency and lack of response to citizen and elected official concerns. This can happen when consultants are hired to manage other consultants. Excessive consultant use can lead to loss of state expertise to effectively check, evaluate and approve consultant work. For example, staff cannot supervise construction inspectors unless they themselves have been inspectors and are fully aware of issues and problems that can occur on a construction site. State staff needs experience on design projects as well in order to review and approve consultant work. A department can quickly lose the experience necessary to protect state investments if there is not an ongoing service in the department².

Also, state staff has less reason to increase the size of projects to increase their income - sometimes called scope creep, which generates more work for consultants. Or as someone once said "never ask a barber if you need a haircut".

Excessive use of consultants can also have a detrimental effect on consulting firms, for example if staff is permanently assigned to state projects or in a state office facility. In these cases, staff is not available to the consultant firm itself for other projects and limits their flexibility to take on other projects and to diversify their client base.

Consultant Selection Process

The selection of consultants for engineering work based on cost raises an ethical issue. It is felt that engineering services should not be selected solely on the basis of lowest cost and that a qualification based selection process should be used. If cost was the only consideration, there is concern that the low bidder might skip important steps in design and jeopardize public health and safety. Cost can be a consideration in selection, but only after a firm has been identified that is fully qualified to do the required work.

This process follows federal law and state regulations which say:

"State of Wisconsin agencies (Division of Facilities Development, Department of Transportation and the Department of Natural Resources) use the QBS [Quality Based Selection] process to select A/E firms. Since 1972, with passage of the Brooks Act, the federal government requires QBS for its A/E services procurement."

The Brooks Act 92: Congress, H.R.12807, October 27, 1972, 40 U.S.C. 471, et seq. amended to include: Title IX Selection of Architects and Engineers:

POLICY "Sec.902. The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineering services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices. Public Law 92-582"³

Related Work

There is little formal literature on the benefits and costs of outsourcing state engineering services. Wilmont, Dies and Schneider looked at methodological issues in comparing costs and recommend a process that looks at after the fact actual projects costs vs. simulated costs of the same project after a project is completed. Several examples from Louisiana are given⁴. They indicated that the majority of previous studies have shown that consultants were more expensive than using state staff for design projects. An analysis was conducted on 20 in-house design projects in Louisiana as compared to estimated costs if consultants did the work. It was found that when road design projects were conducted in-house, costs were 65 per cent of simulated consultant costs and bridge projects were 76 per cent of consultant costs. When projects were conducted by consultants, simulated in-house costs would have been 81 or 83 per cent of consultant costs.

Overall, in-house design costs were 77% of consultant costs, including all overhead and fringe benefits. The differences in all results were significant at the 5 % level or lower. The authors cautioned that cost should not be the sole reason for deciding to contract out and that other factors such as peak demand, special expertise and qualifications should be considered⁵

The division of Budget of the New Jersey Department of Transportation conducted studies of the costs of consultants vs. in-house staff in 2003, following the method suggested in the Louisiana. This study showed that consultant costs were higher in the cases they analyzed. They also recommended better procedures for reporting activities by state employees.⁶

The National Association of State Highway and Transportation Unions looked at studies conducted in a number of states that looked into the costs of outsourcing as reported in the media and elsewhere⁷. The report indicates that contracting out of engineering, design and inspection costs more than performing those functions in-house in over 80% of the studies and that none of the studies showed that state engineers cost more. Numerous media reports are cited of specific instances in various states where outsourcing has led to problems.

The report cautions about the decline in expertise in state agencies (brain drain) to oversee projects. As work is shifted to private firms and state staff is reduced,

the states lose their capability to do the work internally which leads to more outsourcing. This leads to problems of potential cost overruns and threats to the public health and safety because of lack of time and lack of experienced personnel to manage projects.

The report suggests greater accountability, oversight and scrutiny in the contracting process and careful analysis when outsourcing is considered. Steps to maintain an experienced and capable workforce in state agencies are urged.

Previous Studies in Wisconsin

In Wisconsin, this issue has been studied by the Legislative Audit Bureau. In a 1990 study by the Wisconsin Legislative Audit Bureau (study 90-9)⁸ comparisons were made between engineering costs in the Department of Transportation as a percentage of project total construction costs for work done in-house vs. that done by consultants. At the time of this study (April, 1990), use of consultants for WDOT work was relatively new, especially for project inspection. The number of design contracts increased from 20 in 1982 to 162 in 1989 and the number of construction supervision contracts increased from zero in 1982 to 79 in 1989. Wisconsin was estimated to have 35% of its work done by consultants as compared to other states with a high of 80% (Arizona and Indiana) and a low of less than 10% (Iowa and Minnesota)

The study concluded that use of consultants were no more costly than if state staff had been used. It was felt this was the case since, at the time, relatively straightforward projects were given to consultants and more complex projects were done in-house. It was expected that in-house costs would be reduced in the future with more complex projects. No widespread difference in quality of work was found. The report cautioned that it was important to maintain in-house expertise in order to ensure proper oversight of consultant work. Additional study was recommended in the 1991-93 biennium. As far as is known, no such studies have been conducted.

As part of a more general review of the management of state highway programs in 1997 the Legislative Audit Bureau stated:

“In an effort to measure engineering performance, the Department has compared the cost of design engineering and engineering oversight of construction projects to total project costs since FY 1993-94. However, these measurements have not demonstrated any trend in engineering efficiency and are insufficient to provide managers with guidance on how to improve performance. Furthermore, these measures show no significant difference between the cost of district staff and the cost of consulting engineers, who provide 40 percent of design engineering and 30 percent of construction engineering.

“We believe a systematic effort is needed to identify the most important cost factors and to track their increases over time, so that managers can direct their cost-control efforts to those tasks that cause inefficiency and

increased costs. Additional efforts are needed to determine why one-quarter of project designs require addenda to correct errors before bidding can proceed. With such information, managers in the Department would also be better able to evaluate when contracting with private firms for engineering services would be most cost-effective.

“There are some indications that the quality of engineering services provided by private consultants is not as uniformly high as that provided by state staff, but the procedures established for reviewing engineering quality are not routinely followed. District staff do not always complete evaluations of consultants’ designs once projects are completed. Guidelines for estimating the expected cost of consultant contracts are not always followed by district staff, who rely instead on past experience when beginning detailed contract negotiations. Using these procedures to evaluate consultants, sharing the results among all districts, and strengthening contract-negotiating procedures would enhance the Department’s ability to ensure cost-effective use of consultants.”⁹

The Wisconsin Department of Transportation also conducted a comparison of in-house and contracted work in 2004¹⁰. This study used spreadsheet comparisons of design and construction projects over a four year period. The study compared engineering costs as percent of construction costs and found that overall engineering costs had declined by 25% in spite of an increase in overall program size.

The study concluded that in house costs were lower than consultant costs (21.8% of construction costs for in house services vs. 25.7% for consultants) and that the level of consultant services had exceeded the department’s goal of keeping the portion of work done by consultants below 50%.

These results were disputed by the Department of Administration¹¹. DOA indicated that there would be savings with less consultant use, but they were not as large as DOT stated. The dispute related to how non project costs were considered in overhead calculations.

DOT disputed the DOA findings and provided explanations to indicate how they did their calculations.¹² DOT indicated that their cost data were based on actual project experience rather than estimates of hourly costs and overhead as done by DOA.

Both agencies agreed that in-house staff is valuable to maintain competition for consultant firms, and to provide the expertise to maintain quality and to oversee consultant work.

Analysis of Current Practice in Wisconsin

By far the overwhelming numbers of projects that have had Act 89 reporting have been conducted by the Wisconsin Department of Transportation. For this report, over 350 WDOT reports by WDOT were analyzed. Less than 10 reports from other agencies were available for analysis.

Wisconsin Department of Transportation Procedure

The Wisconsin DOT implements Act 89 with a series of spreadsheets. The process is explained in the Facilities Development manual chapter 8, Section 1, subject 5 and on an internal DOT webpage. Separate spreadsheets are used for different project types. The project types are:

- State Highway Rehabilitation – Design - 3031
- State Highway Rehabilitation – Construction – 3033
- Majors – Design – 3021
- Majors – Construction – 3023
- SE Freeways and Marquette Interchange - 3440-3459
- Other

The spreadsheets estimate the costs of consultant services vs. state services, using the same number of hours for both for various tasks. Different hourly rates are used for consultants and state staff for each of the project types. The rates are determined from looking at previous values for multiple projects and include fringe benefits and overhead. Examples of WDOT spreadsheets are at the WDOT web page and the WDOT Facilities Development Manual, Section 8-1-5¹³.

Oversight costs are added on for the consultant cost calculations. These are costs that are incurred in addition to those needed for an in-house project. Oversight activities include preparation of advertisement for the project, consultant selection process, contract negotiation, contract administration including review and approval of invoices, supervision in excess of that needed on a similar WisDOT staffed project, and consultant performance evaluation.

The comparisons are done before a project is approved and there are no known comparisons of actual cost after project completion. The impacts of change orders, change in scope, etc that occur after a project is approved are unknown.

In addition the forms ask three questions:

- “Does WisDOT perform this type of work in-house? If no, do not make a comparison”
- “Does WisDOT have the expertise necessary to perform this work at a high level of quality?”
- “Can WisDOT perform this work in a timely manner?”

Act 89 requires that the benefit cost analysis consider “total cost, quality, technical expertise, and timeliness”. It appears that these three questions are

aimed at the non-cost factors. An inherent assumption in the WisDOT process is that state staff and consultant staff are comparable in quality and that they will accomplish the tasks in the same amount of time.

Analysis of WisDOT Spreadsheets

Data from 362 projects were looked at using data entered by SEA representatives (234 projects) and myself (128 projects). These were from projects outsourced to consultants as reported to the State Engineering Association between November 5, 2006 and September 2, 2008. Of these, 325 included data comparing costs between consultants and the state staff. The other 37 projects were ones where it was judged that the state DOT does not perform the type of work needed in-house. One project, a Marquette Interchange project with a total value of \$13,000,000 was excluded from the analysis because of its high cost compared to others.

The data included project ID, type of project, cost of project if done by state staff, cost of project if done by consultants and oversight costs. 128 of the projects also recorded the answers to the three questions and any comments given in response to the third question – “Can WisDOT perform this work in a timely manner?”

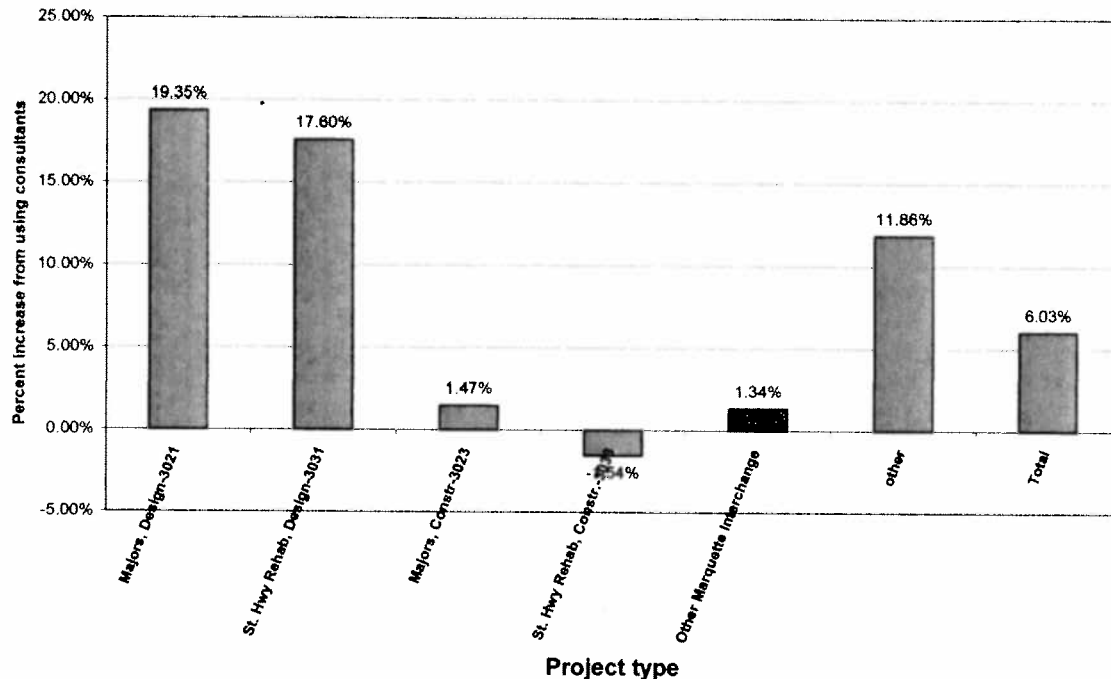
Total Cost Comparisons

Overall these 362 projects represent an estimated cost of \$86,857,712 for consultant work and \$81,987,036 if the work were done by state personnel. The extra cost of using consultants is \$4,937,622 or 6.03%.

Estimated consulting costs ranged from \$12,258 - \$1,395,000 per project, with an average of \$206,297 per project. The oversight costs per project ranged from \$591 - \$107,794, with an average of \$3939 per project. Oversight ranged from 0.25 per cent to 135 per cent of costs with an average of costs 6.41 per cent.

When examined by project type as shown in Figure 1 it was found that use of consultants increased estimated costs by an average of 17.60% and 19.35% for design projects, by 11.86% for other projects, by 1.34% for the Marquette Interchange project. For construction projects, the costs of consultants are nearly the same as for using state staff (+1.47% and -1.53%)

In all design projects examined (105 projects) use of consultants resulted in a greater estimated cost for design projects than had state staff been used.

Figure 1:**Consultant Cost vs. State Cost by project type**

WDOT Hourly rate comparisons

A comparison was made of the hourly rates used in the spreadsheets by task and by project type.

Three tables and associated charts are given at the end of this report which compares the spreadsheet values for hourly costs of state DOT staff for various categories.

The first set compares the hourly rates for design projects. For design projects the hourly rates for consultants are higher in nearly all categories. CADD, environmental impacts, preliminary and final design, planning activities, project management, R/W plat and utility coordination costs can be substantially more with consultants (a difference in hourly rates greater than \$5.00/hr). Hourly costs of consultants are lower with in only a few categories with only operations costs showing an increase greater than \$2.00 per hour. Use of consultants also adds oversight costs at an average rate of \$5.28 per task hour for design of major projects and \$5.75 per task hour for design of rehabilitation projects.

For Construction projects, the cost differences for tasks are more mixed. For construction projects: the hourly rates for construction engineering, materials, operations activities, public involvement, soils and pavements, structures can be substantially less with consultants (>\$5.00/hr). Construction inspection often consumes a large portion of the costs for construction projects. These can be

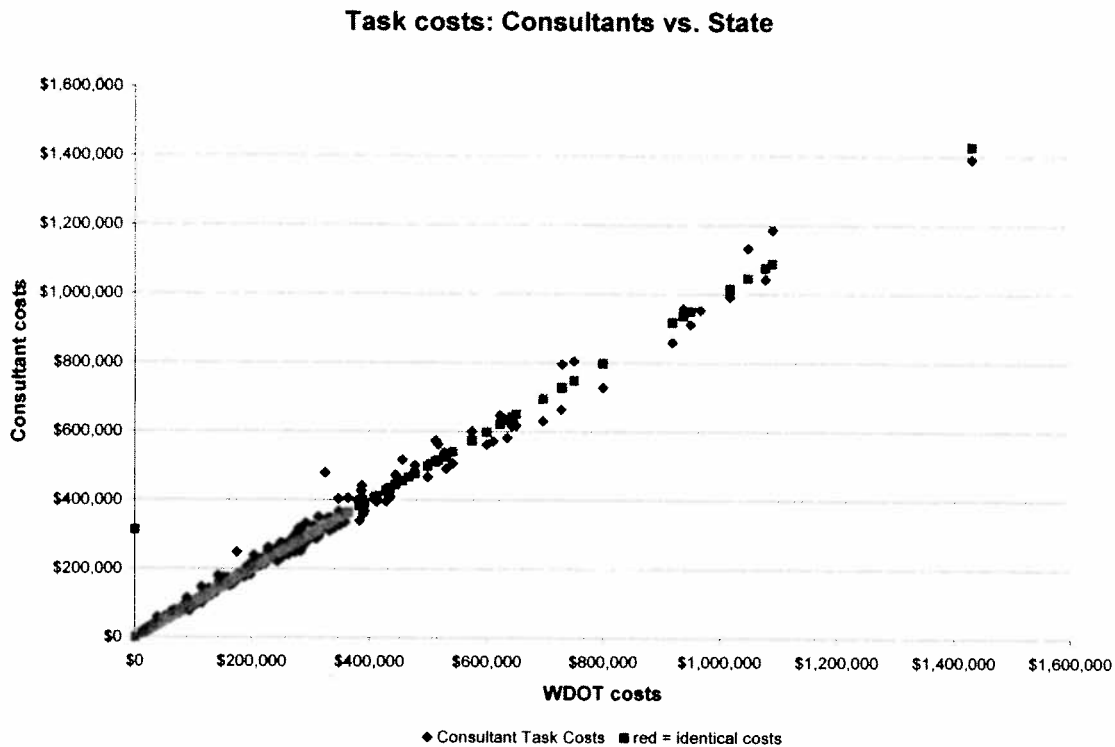
35-60% of costs. It is \$2.66 per hour less to use consultants for major projects and \$6.72 less per hour for rehabilitation projects.

For the Marquette Interchange project and 'other' projects, cost differences vary widely. For the Marquette interchange project (10 projects) state staff costs are substantially less for environmental impacts, operations activities, planning, preliminary design, R/W plat and railroad coordination tasks (>\$5.00/hr). Consultant costs are less if consultants are used for project management, public involvement, real estate and soils and pavements (<\$5.00/hr). Many of the 'other' projects (56 projects) involve surveying work and these costs are comparable for state staff and consultant staff.

WDOT Task costs

Comparisons were made for costs of tasks for consultants vs. state staff. It was found that state staff and consultant costs were nearly the same as shown in Figure 2. This result is not surprising; given the method that assumes equal hours for both.

Figure 2



A more interesting analysis looks at projects that have significantly larger or smaller costs of consultants vs. state staff. This is shown in Figure 3. Here the projects are arranged according to the extra costs of using consultants. The extra costs ranged from a savings of \$57,156 to an additional cost of \$185,451 with an average extra cost of \$14,187.

Those projects where consulting costs are lower (the lowest 30) are shown in Figure 4. In those cases where consultant costs are lower it is mostly because oversight estimates are very low or use of construction spreadsheet and large number of hours for project inspection.

Figure 3

Extra Cost of using consultants

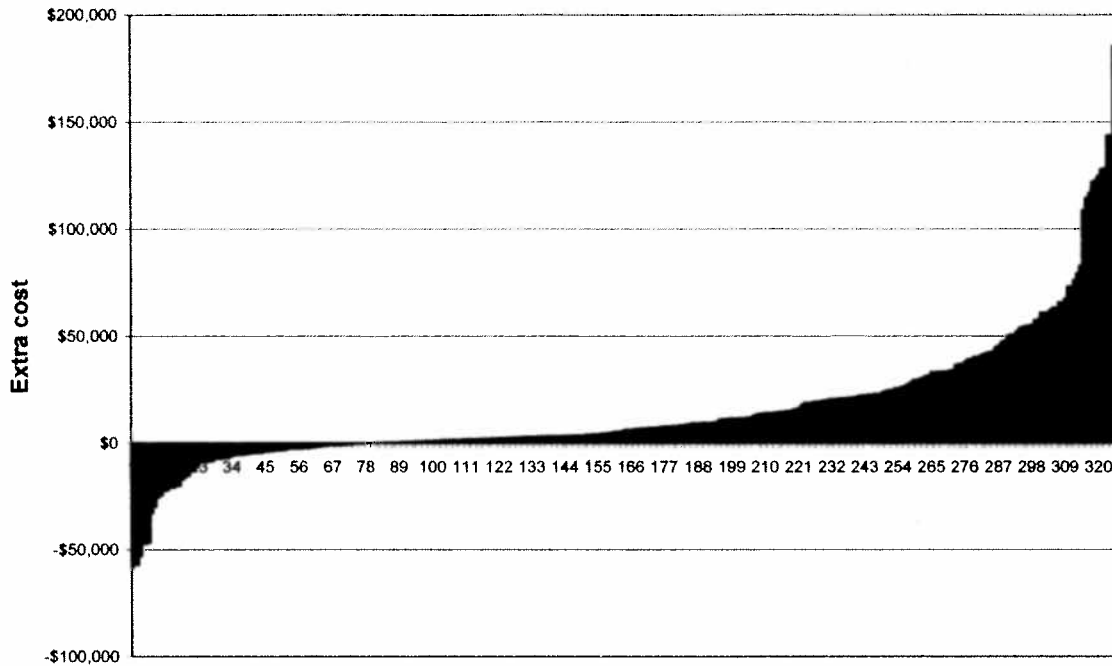


Figure 4

Task and Oversight cost differences -
30 projects with greatest savings from consultant use

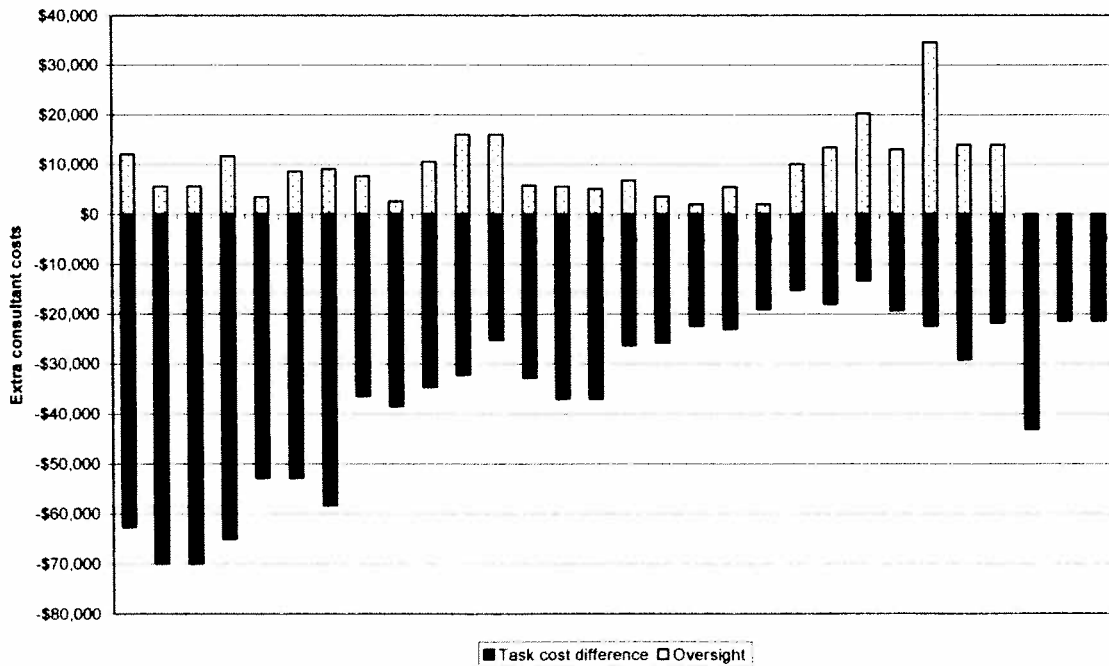


Figure 4 shows the differences in task costs on the bottom bar and the oversight costs on the bar above. The net cost is the difference between the two. In most of the cases the estimated savings occur because estimated oversight costs are very low as compared to other projects.

If oversight costs are underestimated, it tends to make estimated consultant costs look better. As will be described later, some projects appear to substantially underestimate oversight costs

Project costs on the other end, where consultant costs are substantially higher, are shown in Figure 5. In this diagram, the bottom part of the bar is the difference in task costs and the top part is the oversight costs. Where costs are substantially higher for consultants these come about because of the use of 'other' spreadsheet which has higher rates for planning, CADD, environmental impacts.

WisDOT Oversight Costs

A key issue in how WisDOT has implemented Act 89 is in the area of oversight costs. Oversight costs vary widely and often do not follow the recommended portion in the WisDOT guidelines for use of the spreadsheets. Some outliers appear to either underestimate the costs or imply a very limited oversight on the projects.

Figure 6 shows the estimated oversight costs vs. costs of the project if done at WisDOT. As can be seen from the diagram, estimates of oversight costs vary widely and have little relationship to project task costs. For example on one project only \$3,463 oversight was estimated on a \$1.4 million project. This was 41 hrs of oversight for 21,600 hours of consultant work including only 1 hour to evaluate consultant performance and 5 hrs to select the consultant.

There may be very valid reasons for these numbers, but on the surface they imply either inadequate oversight, a poor understanding of the procedure or substantially more cost in reality than was estimated. There is a potential for abuse in this part of the process or at a minimum a lack of proper oversight.

Figure 5

Extra consultant costs,
30 projects with largest extra cost from using consultants

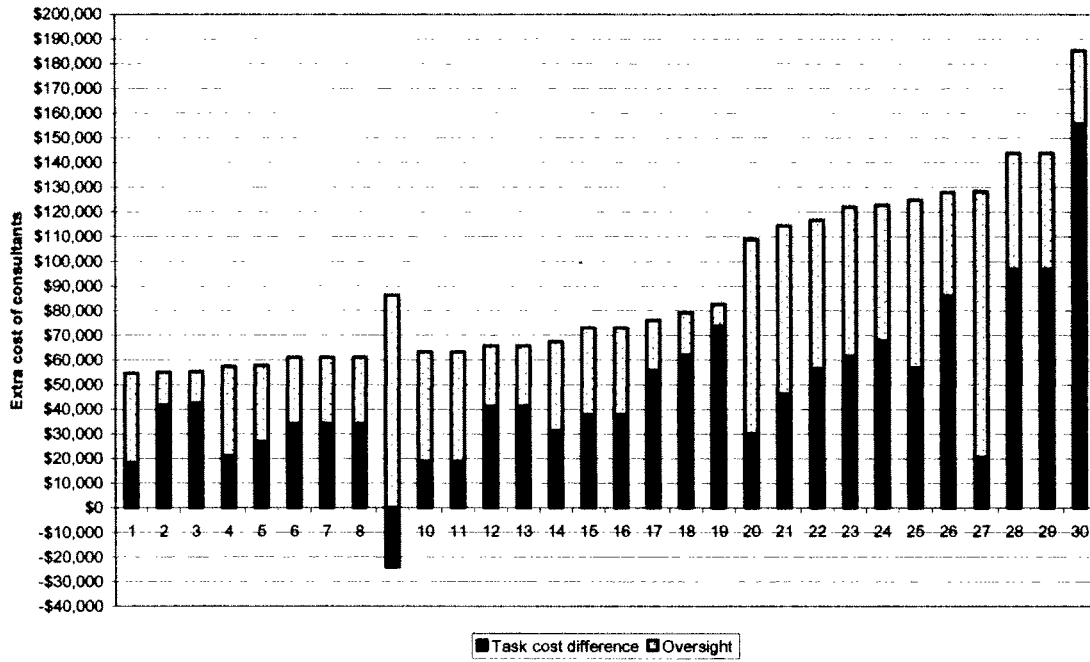
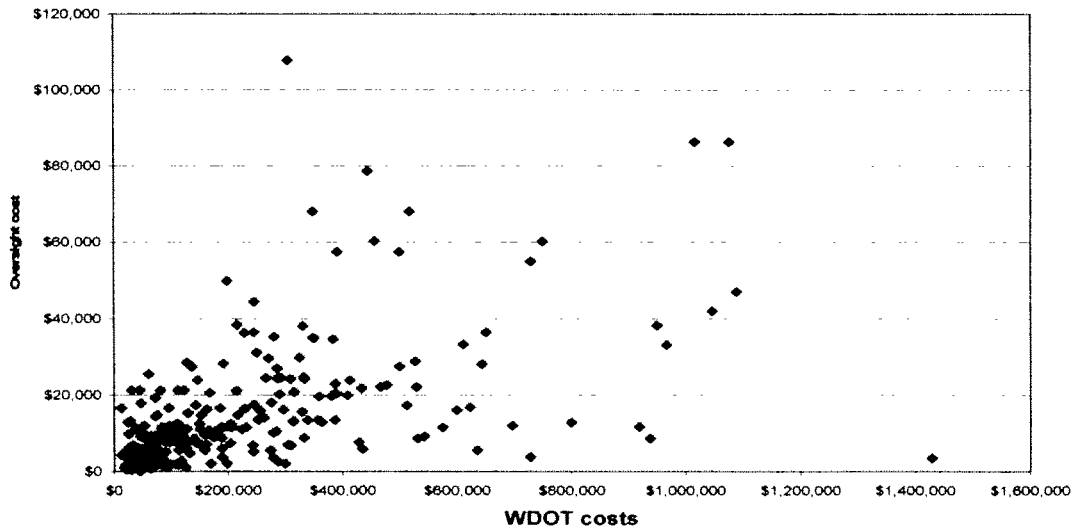


Figure 6

Oversight costs vs WDOT costs



WDOT Reasons for using Consultant

The spreadsheets also give reasons why a consultant was used, often when the cost of the consultant was greater.

Of the 128 projects where this was looked at, in all but 10 use of a consultant was because of insufficient state staff. Some quotes from the reports:

- “Due to Staff commitments on other projects, consultant participation is needed to complete project in a timely manner”
- “Limitations of available staff require the hiring of a consultant.”
- “The amount of staff time required to complete these tasks is not available given the size of our planning staff and the availability based on workload to perform these tasks.”
- “WisDOT could not create the product in a timely manner”.
- “Due to staffing shortages we are unable to deliver the tasks in the tight timeframe given.”
- “Adequate staffing resources are not available to meet the required project commitments.”
- “WisDOT does not have the staff necessary to complete a project of this magnitude in the timeframe needed.”
- “WisDOT does not have the staffing necessary to complete this in the necessary timeframe.”
- “WisDOT does not have resources to deliver this project on its current timeline.”
- “Not enough staff to complete this task”
- “Shortage of experienced position to staff all available work”

Other Consequences

Excessive use of outside sources for engineering services can have other effects that are not directly tied to individual projects. **Loss of project control from insufficient oversight can have long term consequences.** In particular, the use of consultants for project inspection needs to be carefully monitored, since actions of inspectors can directly affect construction costs and profitability. Project inspection in particular is vulnerable to potential abuse and conflict of interest and there could be situations where inspectors fail to fully represent the project owner (state).

In addition, many new engineers go into the profession because they want to design and build projects, not manage consultants. This can lead to a loss of morale by state employees and their departure from state service to work as a consultant, often at a higher rate of pay. **The ability of the state to maintain quality projects can suffer if there is insufficient staff with engineering experience on such projects.** This can only be obtained by having a set of projects done in-house to provide experience and background for permanent staff.

Thirdly, the use of consultants can have an effect on the future of the profession by leading to a lack of summer jobs and internships for engineering students. For many years the state provided a large number of summer jobs for engineering students, typically as construction inspectors and survey crew members. These jobs served to introduce students to careers as engineers and likely had an effect of increasing the retention of students in engineering programs. As these jobs are turned over to permanent employees of consulting firms, there are fewer chances for students to gain this experience. **In the long run, the pool of future engineers for the state and for consulting firms can be jeopardized.**

These effects cannot be dealt with in the benefit cost process of Act 89, but are important and should not be overlooked.

Other agency procedures

There has been limited reporting of Act 89 activity by agencies besides WisDOT. Only three projects by the Wisconsin Department of Natural Resources (DNR), three by the Department of Administration and one each by the Departments of Justice and Commerce were available. Each agency followed a procedure as given by the Department of Administration¹⁴.

The three DNR projects used a detailed procedure that detailed indirect costs and project monitoring expenses. The reports indicate a total cost of \$1,125,631 if done by state staff and a cost of \$1,010,603 if done by consultants or a savings of \$115,028 by outsourcing. It is stated that the DNR does not have sufficient staff to do the projects. However, different hour totals are used for state staff than consultant staff. For example, in the most costly project, state hours are considerably higher than consultant hours to do the same work. It was assumed that the state would hire permanent staff to do the work.

Three Department of Administration projects from the Office of Justice Administration were available. They used the same procedure as the DNR. These dealt with computer services and communications systems. Project costs totaled \$691,735 for contracting vs. \$322,563 if performed by state staff or an extra cost of \$369,172 or 114%. For the largest of these projects, use of contractors was justified because the state did not have the "entire necessary infrastructure, personnel or expertise required to provide this specialized service and meet all of the other needs of the state"¹⁵. Hourly rates for consultant services were significantly higher than for state personnel.

The Department of Justice procedure was used for one submittal to hire expert witnesses for legal cases and an argument was made that outsiders were needed to prevent the appearance of bias by state employees. An overall limit of \$100,000 was requested with no expert witness to exceed \$25,000. The Department of Commerce report was used for the purpose of hiring contractors to be building inspectors in the state. They indicated there was insufficient staff in the state to provide the services. A cost analysis indicated an overall savings if contractors were used.

Conclusions

Based on the analysis, the following conclusions can be made:

- A comprehensive review by state auditors has not taken place for many years in spite of major changes in the role of consultants in state projects.
- Procedures used by state agencies do not document actual experience, i.e. what happened after projects, and what true costs were as compared to hypothetical costs of an internal project
- The overwhelming numbers of projects available for analysis were State DOT projects. The extent of compliance to Act 89 by other agencies is unknown.
- The use of consultants does not save money for the state. For example this led to an increase of approximately \$5 million for 362 WDOT projects examined.
- Consultant costs are between 1.54% lower and 19.35% higher than estimated state staff costs for WDOT projects.
- For design projects use of consultants increases costs in all cases according to the WisDOT procedure.
- Use of consultants increases costs overall for construction projects, primarily because of project oversight. Nonetheless, use of consultants can save money in certain categories – for example with construction inspection where private costs can be less than at the state.
- Project oversight appears to be poorly understood and poorly estimated by state staff (WisDOT).
- In many cases, consultants were used because of lack of state staff to do the project. Reductions in staff to use outside firms leads to a self fulfilling prophecy. Staff size is reduced and then there is a need to add outside staff to perform the same role.
- Excessive use of consultants can result in the loss of state control over their projects, can have long term effects on the future engineering workforce in the state and can lead to poor preparation for project management by the state.
- There is no consistency of methods used by different agencies.

Recommendations

Based on the analysis to date the following recommendations are made:

- There should be a state audit of the costs and performance of specific projects by the Legislative Audit Bureau. This audit should specifically look at actual costs of projects after project completion and estimate what the costs would have been if the project done were in-house. (following procedures recommended by Wilmot, Dies, and Schneider in Transportation Research Record 1654)
- The audit should look at all state agencies subject to Act 89 and determine if proper procedures are applied in each situation and if the intent of the law is being followed.
- The audit should examine major differences in oversight time estimates between projects and the accounting process. Specifically the audit should look at the costs of using consultant staff located on site in state facilities and how overhead is calculated when consultant staff are housed at state offices.
- Other questions to address are: The state has to sign off on designs, i.e. approve them. Does this remove risk for consultants and how does this affect the liability costs of the consultants? Is there any information on the match between consultants put on the short list vs. those actually chosen to do the projects? How does the use of subcontractors affect costs, overhead charged on overhead
- The state should examine how their staff is trained to select and manage consultants and address the questions of how internal projects can be used to build up in-house expertise to oversee projects in the future and how outsourcing affects student summer jobs and internships.
- The State Engineering Association should continue to monitor reports from state agencies in a spreadsheet to update results over time.

Table 1: Comparison of hourly costs for design projects

Engineering Tasks	3031 State Hwy Rehab - Design			3021 Majors - Design		
	WDOT Ave cost/hr	Consultant Ave cost/hr	Difference cons - WDOT	WDOT Ave cost/hr	Consultant Ave cost/hr	Difference cons - WDOT
CADD	\$63.16	\$60.84	(\$2.32)	\$61.75	\$68.01	\$6.26
Environmental Impacts	\$69.51	\$80.73	\$11.22	\$66.73	\$83.70	\$16.97
Final Design	\$71.82	\$74.88	\$3.06	\$72.50	\$83.70	\$11.20
Operations Activities	\$79.01	\$76.25	(\$2.76)	\$84.88	\$82.50	(\$2.38)
Planning Activities	\$51.54	\$76.25	\$24.71	\$79.46	\$82.50	\$3.04
Preliminary Design	\$72.00	\$75.77	\$3.77	\$74.96	\$83.49	\$8.53
Project Management	\$81.35	\$96.84	\$15.49	\$81.74	\$94.54	\$12.80
Public Involvement	\$78.16	\$81.86	\$3.70	\$81.56	\$86.99	\$5.43
R/W Plat	\$64.83	\$71.27	\$6.44	\$64.86	\$80.89	\$16.03
Railroad Coordination	\$74.69	\$76.25	\$1.56	\$76.41	\$82.50	\$6.09
Real Estate	\$65.72	\$66.78	\$1.06	\$69.96	\$82.50	\$12.54
Soils and Pavements	\$76.50	\$76.32	(\$0.18)	\$65.69	\$79.33	\$13.64
Structures	\$70.84	\$81.76	\$10.92	\$74.49	\$78.32	\$3.83
Surveying and Mapping	\$60.90	\$64.39	\$3.49	\$59.92	\$67.48	\$7.56
Utility Coordination	\$65.01	\$79.96	\$14.95	\$66.43	\$85.29	\$18.86
Task Totals	\$69.38	\$74.53	\$5.15	\$72.09	\$81.45	\$9.36
Oversight cost/task hr.		\$81.35	\$5.75		\$86.88	\$5.28

Figure 7

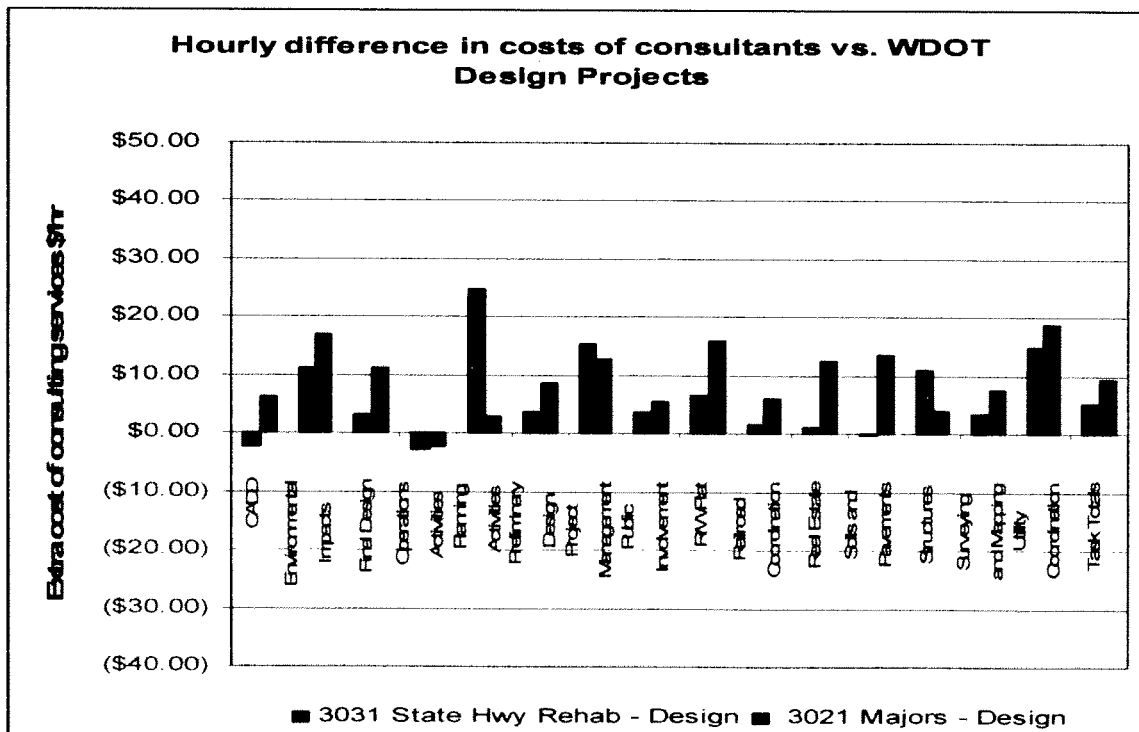


Table 2: Comparison of hourly costs for construction projects

Engineering Tasks	3031- Majors Construction			3033- Rehab- Construction		
	WDOT Ave cost/hr	Consultant Ave cost/hr	Difference WDOT-Cons	WDOT Ave cost/hr	Consultant Ave cost/hr	Difference WDOT-Cons
Construction Contract Admin	\$67.88	\$74.12	\$6.24	\$66.50	\$66.48	(\$0.02)
Construction Engineering	\$71.10	\$65.71	(\$5.39)	\$73.10	\$69.59	(\$3.51)
Construction Inspection	\$68.88	\$66.22	(\$2.66)	\$71.41	\$64.69	(\$6.72)
Construction Materials	\$75.01	\$59.87	(\$15.14)	\$68.63	\$62.21	(\$6.42)
Environmental Impacts	\$72.59	\$71.99	(\$0.60)	\$74.40	\$85.22	\$10.82
Operations Activities	\$84.84	\$68.74	(\$16.10)	\$81.60	\$67.60	(\$14.00)
Project Management	\$84.49	\$86.01	\$1.52	\$87.07	\$85.81	(\$1.26)
Public Involvement	\$93.84	\$76.70	(\$17.14)	\$85.00	\$75.28	(\$9.72)
Railroad Coordination	\$65.92	\$68.74	\$2.82	\$65.70	\$67.60	\$1.90
Real Estate	\$67.17	\$68.74	\$1.57	\$68.33	\$67.60	(\$0.73)
Soils and Pavements	\$79.16	\$68.74	(\$10.42)	\$80.00	\$67.60	(\$12.40)
Structures	\$81.17	\$68.51	(\$12.66)	\$81.83	\$67.64	(\$14.19)
Surveying and Mapping	\$63.26	\$59.30	(\$3.96)	\$61.88	\$62.01	\$0.13
Utility Coordination	\$69.21	\$68.74	(\$0.47)	\$67.50	\$73.89	\$6.39
Task Totals	\$69.92	\$67.02	(\$2.91)	\$70.82	\$67.31	(\$3.51)
Oversight cost/task hr.		\$84.49	\$1.96		\$87.07	\$5.32

Figure 8

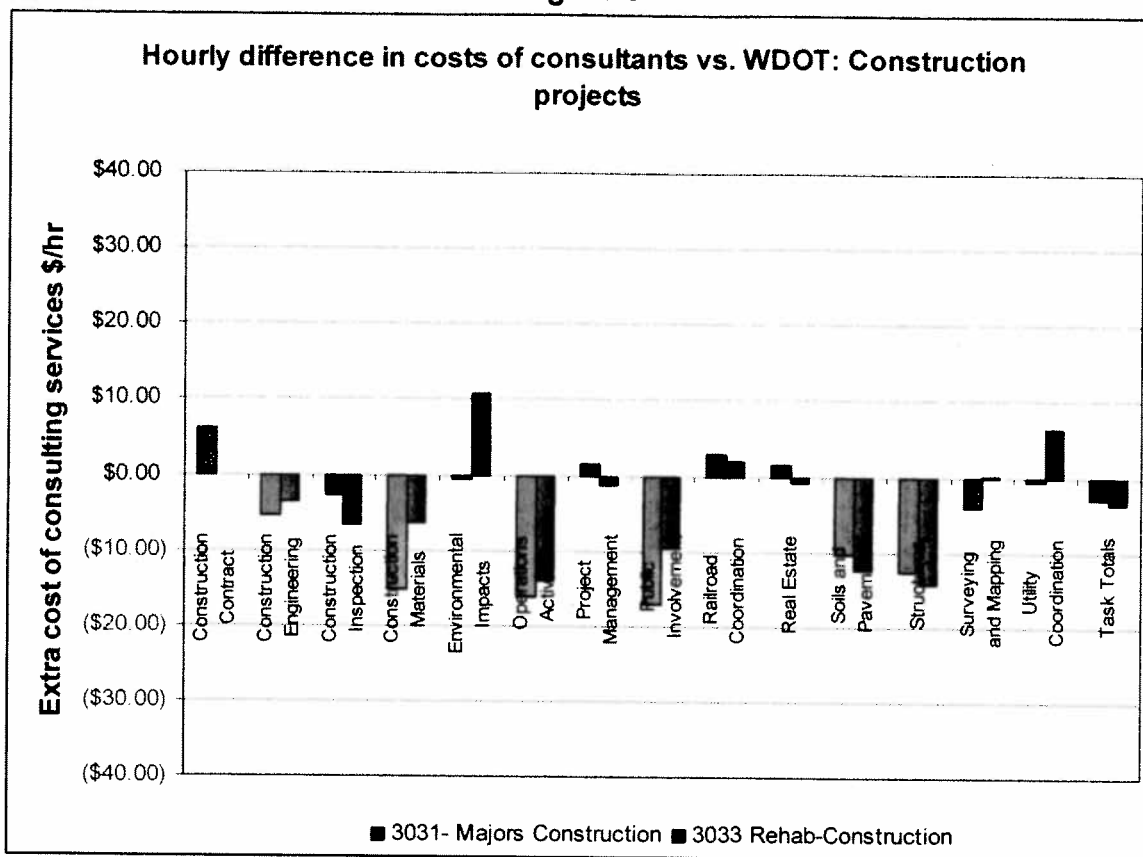
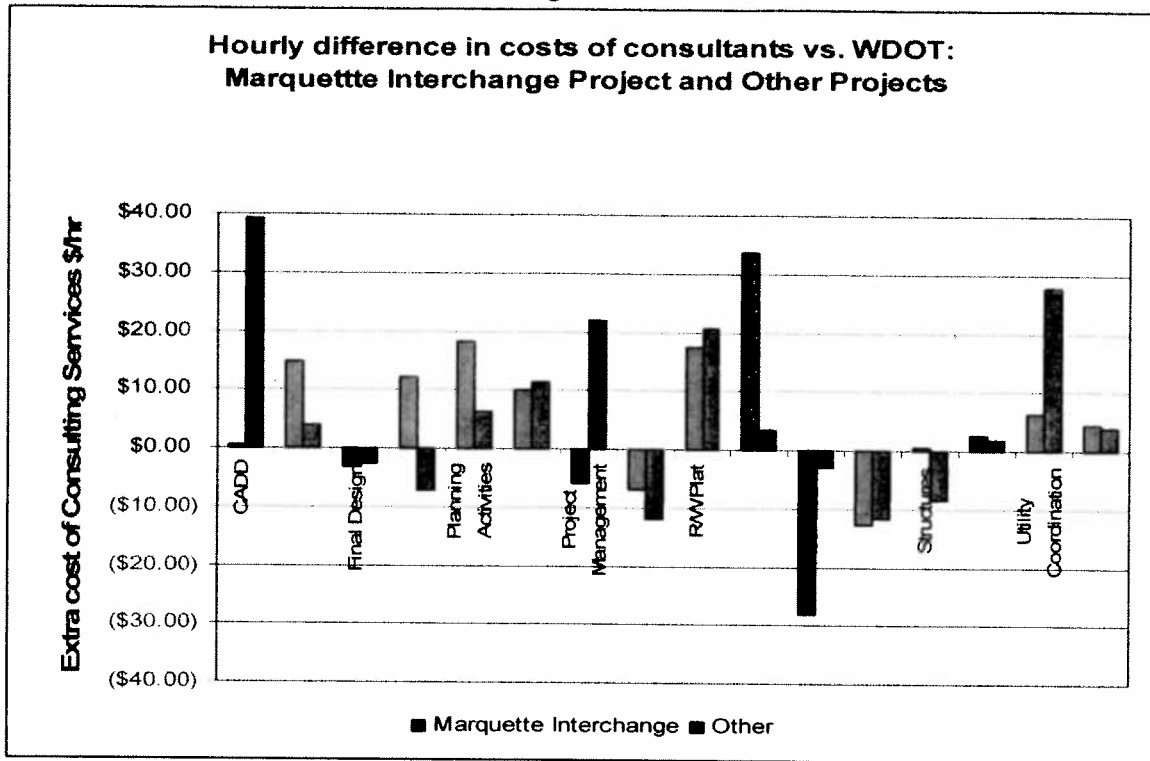


Table 3: Comparison of hourly costs for Marquette Interchange and other projects

Engineering Tasks	Marquette Interchange			Other		
	WDOT	Consultant	Difference	WDOT	Consultant	Difference
	Ave cost/hr	Ave cost/hr	cons - WDOT	Ave cost/hr	Ave cost/hr	cons - WDOT
CADD	\$64.61	\$65.19	\$0.58	\$60.61	\$99.74	\$39.13
Environmental Impacts	\$86.11	\$100.81	\$14.70	\$73.88	\$77.80	\$3.92
Final Design	\$83.11	\$79.93	(\$3.18)	\$72.48	\$69.74	(\$2.74)
Operations Activities	\$89.13	\$101.23	\$12.10	\$82.25	\$75.08	(\$7.17)
Planning Activities	\$83.03	\$101.23	\$18.20	\$68.61	\$75.08	\$6.47
Preliminary Design	\$72.04	\$82.01	\$9.97	\$70.50	\$81.89	\$11.39
Project Management	\$88.44	\$82.66	(\$5.78)	\$85.51	\$107.37	\$21.86
Public Involvement	\$92.26	\$85.36	(\$6.90)	\$88.44	\$76.53	(\$11.91)
R/W Plat	\$64.17	\$81.60	\$17.43	\$62.36	\$83.11	\$20.75
Railroad Coordination	\$67.63	\$101.23	\$33.60	\$71.51	\$75.08	\$3.57
Real Estate	\$80.45	\$52.39	(\$28.06)	\$64.22	\$61.29	(\$2.93)
Soils and Pavements	\$82.97	\$70.16	(\$12.81)	\$80.36	\$68.60	(\$11.76)
Structures	\$77.19	\$77.61	\$0.42	\$79.59	\$71.18	(\$8.41)
Surveying and Mapping	\$68.28	\$70.87	\$2.59	\$62.27	\$64.04	\$1.77
Utility Coordination	\$80.78	\$87.07	\$6.29	\$67.45	\$95.26	\$27.81
Task Totals	\$75.08	\$79.45	\$4.37	\$63.76	\$67.62	\$3.86
Oversight cost/task hr.		\$87.92	\$6.83		\$83.29	\$14.74

Figure 9



End Notes

- ¹ 2005 Wisconsin Act 89, section 2 (16.70 3g)
- ² Wilmot, C. G, H., Dies, D. R. and Schneider, H., "In-House Versus Consultant Design Costs in State Departments of Transportation" **Transportation Research Record 1654**, 1999, p 159
- ³ <http://www.qbswi.org/> also see The American Council of Engineering Companies of Wisconsin (ACEC WI) and AIA Wisconsin, Wisconsin Quality Based Selection manual <http://www.qbswi.org/docs/A-EQBS.pdf> , January, 2003
- ⁴ Wilmot, C. G, H., Dies, D. R. and Schneider, H., *op.cit.* pp 153-160.
- ⁵ *Ibid*, p 158
- ⁶ Division of Budget, Bureau of Program Analysis, New Jersey Department of Transportation, "Advisability Study, FY 2004, Design Projects – In-house vs. Consultant Costs, October, 2003
- ⁷ Kusnet, David, "Highway Robbery II – the Many Problems with Outsourcing Design Engineering, Inspection and Supervision of Federally-Funded Transportation Projects" report of the National Association of State Highway and Transportation Unions, May 2007, <http://www.nashtu.us/download.htm>
- ⁸ "An Evaluation of Use of Engineering Consultants in the Department of Transportation" Report 90-9 of the Legislative Audit Bureau, April, 1990.
- ⁹ From: Legislative Audit Bureau Report 97-4 Management of the Highway Program, Department of Transportation, <http://www.legis.state.wi.us/lab/reports/97-4summary.htm>
- ¹⁰ WisDOT and Division of Transportation Districts Engineering Cost Comparisons, April 20, 2004, attached to a letter to the State Engineering Association November 11, 2004
- ¹¹ Sarah Justus " Analysis of Proposal to Increase Ratio of State Staff to Consultants in Highway Improvement Process", letter to David Schmiedicke, October 1, 2004
- ¹² DOT response to DOA Analysis of DOT Engineering Cost Analysis November 19, 2004
- ¹³ "Cost-Benefit Analysis" State of Wisconsin Facilities Development Manual, Section 8-1-5, October 25, 2007

¹⁴ Wisconsin Dept of Administration Cost Benefit Analysis Financial Information <http://vendornet.state.wi.us/vendornet/doaforms/CBAInstructions.doc>

¹⁵ Letter to Wisconsin State Engineering Association from Wisconsin Office of Justice Assistance, May 12, 2008

COST-BENEFIT ANALYSIS

Wisconsin Department of Transportation
DT2233 2/2007 Ch. 84 Wis. Stats.

Program Type - Code				
<input type="checkbox"/> St Hwy Rehab, Design - 3031	<input type="checkbox"/> St Hwy Rehab, Constr - 3033	<input type="checkbox"/> Majors, Design - 3021	<input type="checkbox"/> Majors, Constr - 3023	Rates Updated 1/27/2009
<input checked="" type="checkbox"/> Other (Describe below)				
SE Freeways/Marquette Interchange Construction Program Code:				
Project ID	Highway	County	Region/Bureau	Work Order No.
Project Description (Limits, type of work not noted in Improvement or Program Type)				
Improvement Type				
<input type="checkbox"/> Bridge Rehabilitation	<input type="checkbox"/> Expansion	<input type="checkbox"/> Reconditioning	<input type="checkbox"/> Resurfacing	
<input type="checkbox"/> Bridge Replacement	<input type="checkbox"/> Pavement Replacement	<input type="checkbox"/> Reconstruction		
<input type="checkbox"/> Other (Describe below)				
Does WisDOT perform this type of work in-house? If the answer is no, do not continue with comparison and explain below				
<input type="checkbox"/> Yes <input type="checkbox"/> No				


Engineering Tasks	WisDOT			Consultant		
	Hours to Complete Task	Average Cost/Hr	Total Estimated Amt for Task	Hours to Complete Task	Average Cost/Hr	Total Estimated Amt for Task
Construction Contract Admin		\$72.14	\$0.00		\$102.23	\$0.00
Construction Engineering		\$77.78	\$0.00		\$104.16	\$0.00
Construction Inspection		\$76.40	\$0.00		\$91.11	\$0.00
Construction Materials		\$74.61	\$0.00		\$69.87	\$0.00
Environmental Impacts		\$84.22	\$0.00		\$96.46	\$0.00
Operations Activities		\$96.71	\$0.00		\$116.71	\$0.00
Project Management		\$90.45	\$0.00		\$113.03	\$0.00
Public Involvement		\$109.88	\$0.00		\$149.63	\$0.00
Railroad Coordination		\$70.12	\$0.00		\$116.71	\$0.00
Real Estate		\$75.96	\$0.00		\$116.71	\$0.00
Soils and Pavements		\$78.61	\$0.00		\$116.71	\$0.00
Structures		\$78.82	\$0.00		\$116.71	\$0.00
Surveying and Mapping		\$72.51	\$0.00		\$61.84	\$0.00
Utility Coordination		\$91.75	\$0.00		\$116.71	\$0.00
Task Totals	0	\$0.00	\$0.00	0	\$0.00	\$0.00
WisDOT Oversight Hours						
Enter estimated hours below * Avg WisDOT Cost/Hr (per Project Management task)						
Prepare advertisement						
Conduct selection process						
Negotiate contract						
Contract administration including:						
• Review/approval of invoices						
• Supervision-including engineering decisions, in excess of oversight needed on similar WisDOT-staffed projects				0	\$90.45	\$0.00
• Consultant performance evaluation						
Other oversight tasks (include description(s) below)						
Total Amount (Tasks + Oversight)	0	\$0.00	\$0.00	0	\$0.00	\$0.00





WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES
FROM: Ronald Sklansky, Senior Staff Attorney 
RE: Emergency Rule Extension
DATE: January 6, 2010

On January 5, 2010, the Joint Committee for Review of Administrative Rules (JCRAR) met to consider, among other things, the extension of a Department of Revenue (DOR) emergency rule relating to combined reporting for corporation franchise and income tax purposes.

In the executive session, a member of JCRAR asked whether the committee had jurisdiction over the rule since the Wisconsin Administrative Register noted that the rule expired at the end of January 4, 2010. I reported to the committee that because of this notation in the Wisconsin Administrative Register and the claim in the department request for the extension that the rule expired on January 5, 2010, I had contacted the Legislative Reference Bureau (LRB), the publisher of the Wisconsin Administrative Register, for clarification. I also reported the LRB response that the Wisconsin Administrative Register was in error, that the emergency rule was published on August 9, 2009, and that the final day of the rule's effectiveness was January 5, 2010. The LRB based its opinion on a statement contained in the body of the legal notice indicating that the notice was published in the *Wisconsin State Journal* on August 9, 2009. Ultimately, the committee adopted a motion to extend the emergency rule for an additional 60 days.

Following the JCRAR action, the LRB reexamined the records relating to the emergency rule. It was discovered that, while the body of the publication notice indicates that the publication occurred on August 9, 2009, the notice actually appeared in the August 8, 2009 edition of the *Wisconsin State Journal*. When presented with this information, I contacted the *Wisconsin State Journal* for further clarification. The newspaper verified that the publication of the emergency rule in fact took place on Saturday, August 8, 2009, and that the statement in the notice that the publication took place on August 9 was made in error by a person no longer employed by the newspaper. A request for the placement of the legal notice made by DOR to the *Wisconsin State Journal* verifies the intent of the department to publish the emergency rule on August 8, 2009.

Because it appears that the DOR emergency rule was published on August 8, 2009, it must be concluded that the emergency rule expired at the end of January 4, 2010, that JCRAR had no jurisdiction to consider the rule extension on January 5, 2010, and that the JCRAR motion to extend the effectiveness of the emergency rule is void.

RS:wu





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Calif. GHG Emissions Law Will Cost Jobs in Short Term, State Analysts Find

The New York Times

By Debra Kahn

March 10, 2010

California policymakers used flawed economic models to justify a state effort to curb emissions of greenhouse gases, according to a new state report.

The California Legislative Analyst's Office found the state's 2006 climate law, A.B. 32, is unlikely to generate jobs in the short term and in fact would result in jobs lost -- contrary to claims from the law's promoters.

"We believe that the aggregate net jobs impact in the near term is likely to be negative," the report says. "Reasons for this include the various economic dislocations, behavioral adjustments, investment requirements, and certain other factors." Net job creation in the long term is too uncertain to predict, the report says.

The analysis was requested by state Sen. Dave Cogdill (R), who had questioned whether the state's goal of reducing greenhouse gas emissions to 1990 levels by 2020 would produce enough "green jobs" to offset predicted job losses in the fossil fuel sector and other industries.

"At a time when California's jobless rate is nearly three points higher than the national average, we should be doing everything we can to ensure any Californian who wants a job is able to get one," Cogdill said in a statement. Cogdill hails from Modesto, whose unemployment rate was 17.5 percent late last year.

A ballot initiative in November would suspend A.B. 32 until unemployment falls below 5.5 percent. A poll released this week by a group opposing the initiative found 47 percent of those surveyed saying they would not back the initiative and 37 percent expressing support (*ClimateWire*, March 10).

The initiative's backers -- petroleum refiners Valero Energy Corp. and Tesoro Corp. -- claim A.B. 32 would cost the state 1.1 million jobs. But the state report does not say what number of jobs would be lost.

State analysts say California's labor market would be affected by A.B. 32 through higher energy prices, reduced trade with other states, toughened vehicle fuel standards and the cost of complying with the law.

The California Air Resources Board's (ARB) own modeling may have underestimated the overall impact of climate regulations, the report says, by taking "snapshots" of the economy at different points in time, without considering the longer-term effects on businesses.

"The process of adjustment during the transition period can be difficult and impose significant changes and costs on households and businesses," the report says. "Even if a business might in theory end up being roughly the same off or even better off than it was originally at the end of the transition period, it may not make it to that point if the transition was too disruptive or financially difficult."

While an updated version of ARB's economic analysis is due out soon, no new data were used by the legislative analyst for its report. Economists criticized the original ARB analysis in 2008, saying it was far too specific in estimating a slight net increase in gross state product and individual earnings through 2020.

The legislative analyst's report drew a swift rebuke from the nonprofit Union of Concerned Scientists. The group called the report "baseless," citing other studies that have shown energy efficiency measures and renewable energy standards would create jobs.

"California has proven time and again that economic growth and environment protection go hand in hand," the group's economist, Jasmin Ansar, said.





25% RENEWABLE PORTFOLIO MANDATE

Fact: The 25% Renewable Portfolio Mandate Will Be Incredibly Expensive

The Wisconsin Public Service Commission (PSC) published a report last year that concluded utilities would need to build 400 megawatts of renewable generation every year until 2025 to meet a 25% RPS.¹ Using their estimated cost of \$2.32 million per megawatt, the PSC's analysis suggests a \$15 billion capital cost for the 25% mandate by 2025, without accounting for the substantial electric transmission costs. By comparison, Wisconsin consumers spend about \$6 billion each year on electricity. A \$15 billion cost increase will be enormous, and will hit Wisconsin families at businesses at a time when they can least afford it.

Fact: Wisconsin Already Has More Electricity Than We Need

According to the PSC, Wisconsin has a 30% surplus in electric generating capacity.² As such, we already have significantly more power than we could possibly consume. Why should legislators force homeowners and businesses to pay many billions of dollars to build additional electric generation we do not need?

Fact: Wisconsin's Electric Rates Have Already Climbed Faster Than Other Midwest States

Between the years 2000 and 2007, Wisconsin's industrial electric rates increased by more than 50% — faster than any other Midwest state.³ Our electric rates are now higher than the Midwest average, and only Michigan has a higher electric rate. To remain competitive, Wisconsin must find ways to make electricity less expensive

Fact: Manufacturing Jobs Rely Upon Affordable Energy

The cost of electricity is often the second or third highest operating cost for manufacturers. Our ability to attract and retain manufacturing jobs is tied directly to the affordability of energy. For example, when electric rates climbed more than 50% between 2000 and 2007, Wisconsin lost 100,000 manufacturing jobs.

Fact: Wisconsin Voters Overwhelmingly Oppose a 25% Renewable Mandate When They Learn

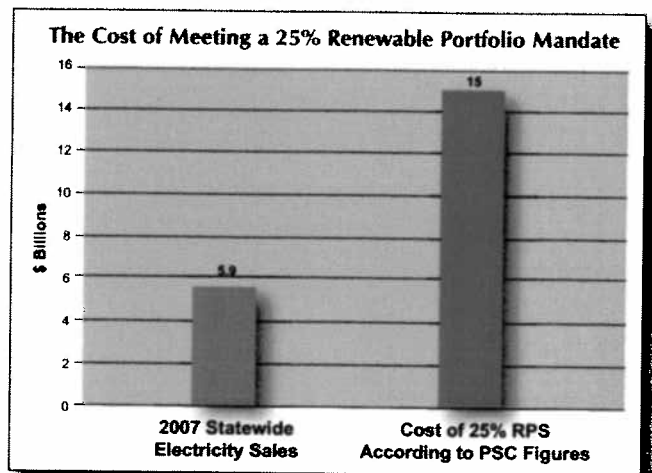
How Much It Costs

A statewide poll conducted in September last year by Public Opinion Strategies found Wisconsin voters oppose a 25% renewable generation mandate by a 68% to 20% margin when they are told about the cost impact on electric bills. This 3-to-1 opposition runs across the political spectrum, with Democrats, Republicans and Independent voters opposing the policy.

¹ Strategic Energy Assessment 2014, Public Service Commission, April, 2009

² Ibid

³ U.S. Department of Energy, Bureau of Energy Information



Question: Would you support or oppose a 25% renewable electricity law if it will cost Wisconsin's electricity bill payers billions of dollars, and would result in significant increases in their electric bills?

