



# STATE OF WISCONSIN Assembly Journal

## Ninety-Ninth Regular Session

WEDNESDAY, August 25, 2010

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

### ADMINISTRATIVE RULES

#### **Assembly Clearinghouse Rule 09–044**

Relating to registration of non–standard vehicles.  
Submitted by Department of Transportation.  
Report received from Agency, August 10, 2010.  
To committee on **Transportation**.  
Referred on August 11, 2010.

#### **Assembly Clearinghouse Rule 09–102**

Relating to groundwater quality standards.  
Submitted by Department of Natural Resources.  
Report received from Agency, August 18, 2010.  
To committee on **Natural Resources**.  
Referred on August 24, 2010.

#### **Assembly Clearinghouse Rule 09–119**

Relating to the release of inmates from state prison through parole or other procedures established through [2009 Wisconsin Act 28](#).  
Submitted by Department of Corrections.  
Report received from Agency, August 23, 2010.  
To committee on **Corrections and the Courts**.  
Referred on August 25, 2010.

#### **Assembly Clearinghouse Rule 10–002**

Relating to the identification of children with specific learning disabilities.  
Submitted by Department of Public Instruction.  
Report received from Agency, August 19, 2010.  
To committee on **Education**.  
Referred on August 23, 2010.

#### **Assembly Clearinghouse Rule 10–014**

Relating to examinations for barbers and cosmetologists, aestheticians, electrologists, manicurists, and managers.  
Submitted by Department of Regulation and Licensing.  
Report received from Agency, August 11, 2010.  
To committee on **Jobs, the Economy and Small Business**.  
Referred on August 18, 2010.

#### **Assembly Clearinghouse Rule 10–033**

Relating to implementation of best available retrofit technology for the protection of visibility in mandatory class I federal areas.  
Submitted by Department of Natural Resources.  
Report received from Agency, August 18, 2010.  
To committee on **Natural Resources**.  
Referred on August 24, 2010.

#### **Assembly Clearinghouse Rule 10–046**

Relating to asbestos project inspection and notification revision fees and affecting small business.  
Submitted by Department of Natural Resources.  
Report received from Agency, August 18, 2010.  
To committee on **Natural Resources**.  
Referred on August 24, 2010.

#### **Assembly Clearinghouse Rule 10–047**

Relating to fees for reviewing applications for construction of air pollution sources and affecting small business.  
Submitted by Department of Natural Resources.  
Report received from Agency, August 18, 2010.  
To committee on **Natural Resources**.  
Referred on August 24, 2010.

#### **Assembly Clearinghouse Rule 10–048**

Relating to permit requirements for Class 1 areas and affecting small business.  
Submitted by Department of Natural Resources.  
Report received from Agency, August 18, 2010.  
To committee on **Natural Resources**.  
Referred on August 24, 2010.

#### **Assembly Clearinghouse Rule 10–049**

Relating to the vehicle inspection and maintenance program and affecting small business.  
Submitted by Department of Natural Resources.  
Report received from Agency, August 18, 2010.  
To committee on **Natural Resources**.  
Referred on August 24, 2010.

#### **Assembly Clearinghouse Rule 10–050**

Relating to permit requirements for particulate matter emissions and affecting small business.  
Submitted by Department of Natural Resources.  
Report received from Agency, August 18, 2010.  
To committee on **Natural Resources**.  
Referred on August 24, 2010.

**Assembly Clearinghouse Rule 10-055**

Relating to somatic cell standards for dairy goat milk.  
Submitted by Department of Agriculture, Trade and Consumer Protection.  
Report received from Agency, August 13, 2010.  
To committee on **Agriculture**.  
Referred on August 25, 2010.

**Assembly Clearinghouse Rule 10-058**

Relating to school nurse certification.  
Submitted by Department of Public Instruction.  
Report received from Agency, August 9, 2010.  
To committee on **Education**.  
Referred on August 11, 2010.

**Assembly Clearinghouse Rule 10-059**

Relating to the registration and reporting process for water withdrawals and affecting small business.  
Submitted by Department of Natural Resources.  
Report received from Agency, August 18, 2010.  
To committee on **Natural Resources**.  
Referred on August 24, 2010.

**Assembly Clearinghouse Rule 10-060**

Relating to water conservation and water use efficiency for water withdrawals and affecting small business.  
Submitted by Department of Natural Resources.  
Report received from Agency, August 18, 2010.  
To committee on **Natural Resources**.  
Referred on August 24, 2010.

**Assembly Clearinghouse Rule 10-061**

Relating to water withdrawal fees in the Great Lakes basin and affecting small business.  
Submitted by Department of Natural Resources.  
Report received from Agency, August 18, 2010.  
To committee on **Natural Resources**.  
Referred on August 24, 2010.

**Assembly Clearinghouse Rule 10-063**

Relating to debarment, suspension, and ineligibility of department of administration contractors  
Submitted by Department of Administration.  
Report received from Agency, August 18, 2010.  
To committee on **Jobs, the Economy and Small Business**.  
Referred on August 24, 2010.

**Assembly Clearinghouse Rule 10-065**

Relating to annual injured patients and families compensation fund fees and medical mediation panel fees for the fiscal year beginning July 1, 2010, and may have an effect on small business.  
Submitted by Insurance Commissioner.  
Report received from Agency, August 9, 2010.  
To committee on **Insurance**.  
Referred on August 11, 2010.

**Assembly Clearinghouse Rule 10-070**

Relating to license reinstatement.  
Submitted by Department of Transportation.  
Report received from Agency, August 10, 2010.  
To committee on **Transportation**.  
Referred on August 11, 2010.

**Assembly Clearinghouse Rule 10-073**

Relating to the state apprenticeship program and affecting small businesses.  
Submitted by Department of Workforce Development.  
Report received from Agency, August 11, 2010.  
To committee on **Workforce Development**.  
Referred on August 18, 2010.

**Assembly Clearinghouse Rule 10-074**

Relating to the use of race-based nicknames, logos, mascots, and team names by school boards.  
Submitted by Department of Public Instruction.  
Report received from Agency, August 9, 2010.  
To committee on **Education**.  
Referred on August 11, 2010.

**Assembly Clearinghouse Rule 10-075**

Relating to education reform.  
Submitted by Department of Public Instruction.  
Report received from Agency, August 9, 2010.  
To committee on **Education**.  
Referred on August 11, 2010.

**Assembly Clearinghouse Rule 10-083**

Relating to educator preparation and licensing flexibility.  
Submitted by Department of Public Instruction.  
Report received from Agency, August 19, 2010.  
To committee on **Education**.  
Referred on August 23, 2010.

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**SPEAKER'S COMMUNICATIONS**

August 10, 2010

The Honorable Jim Doyle  
Governor  
115 East, State Capitol  
Madison, WI 53703

Dear Governor Doyle:

Due to a scheduling conflict, Representative Pedro Colon will be replacing Representative Gordon Hintz as a member of the Building Commission and the Higher Education subcommittee for the meeting on August 11, 2010.

This appointment is effective for this meeting only.

Sincerely,  
*MICHAEL J. SHERIDAN*  
Assembly Speaker

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## REFERRAL OF AGENCY REPORTS

State of Wisconsin  
Government Accountability Board  
Madison

August 6, 2010

To the Honorable, the Legislature:

On behalf of the Government Accountability Board (Board), I am pleased to provide you with an Interim Report on Extending the Government Accountability Board's Hours of Operation for the 2010 Spring Election Cycle. This report summarizes an examination of clerks' requested extended hours of operation for Board staff, and the effectiveness of those hours during the 2010 February Spring Primary and April Spring Election in accordance with the Board's obligation under Section 7.08 (11), Wisconsin Statutes.

This statute was created by 2009 Wisconsin Act 28, Section 2q, enacted on June 29, 2009, and requires the Board to ensure that adequate staff are available to answer local election officials' questions for each statewide election and recount. Accordingly, the Board continued its established practice, previously based on past election experience, of offering extended operating hours during the 2010 Spring Election Cycle.

In our continuing effort to more effectively meet the needs of participants in the election process, we sought to solicit input from local election officials, our partners, on what extended hours would best meet their needs. 790 or 45.5% of the 1,738 clerks able to receive email notifications completed a survey and, in their responses, highlighted two aspects about extended hours. First, no one set of extended hours fits every election. Second, clerks desire greater Statewide Voter Registration System (SVRS) support before an election and Election Administration support on Election Day.

Additional data on the number and types of inquiries fielded by Board staff during the spring elections was captured in extended hours Election Activity Logs. The two main concerns reported on Election Day for the 2010 February Primary and April 6 Spring Election were issues at the polling place (i.e. voters at the wrong polling place, signs or buttons that upset other voters, Election Day registration confusion) and how to process absentee ballots. This suggests that more may need to be done to educate both voters and poll workers on how to handle common polling place issues, including unusual absentee situations.

This interim report summarizes the efforts of Board staff to meet customers' needs during the 2010 Spring Election Cycle. Following the 2010 November General Election, a Final Report on Extended Hours will be prepared to document our services during the Fall Election Cycle. The Final Report will also serve as an overall evaluation of the extended hours provided during the entire 2010 Election Season.

Sincerely,  
*KEVIN J. KENNEDY*  
Director and General Counsel

Referred to committee on **Elections and Campaign Reform.**

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## AGENCY REPORTS

State of Wisconsin  
Legislative Audit Bureau  
Madison

August 10, 2010

To the Honorable, the Assembly:

We have completed a biennial performance evaluation of the Department of Administration's (DOA's) Division of Gaming, as required by s. 13.94 (1)(eg), Wis. Stats. The Division oversees Indian gaming, pari-mutuel racing, and charitable gaming activities in Wisconsin.

In fiscal year (FY) 2008-09, the Division's expenditures to regulate all three types of gaming activities totaled \$3.1 million in program revenue. We analyzed a judgmental selection of its expenditures over a three-year period and found that reimbursements were sufficiently documented and appear to be reasonable. We note that during this period, \$26,300 in reimbursements were made to an employee for mileage, food, and lodging costs incurred while traveling between his home in Chicago and the Division's office in Madison, where he works as legal counsel. These expenditures warrant careful monitoring to ensure they are reasonable and necessary.

Indian gaming represents the most significant gaming activity in Wisconsin. In 2009, Indian gaming revenue was \$1.3 billion, tribal gaming expenses were \$780.2 million, and tribal gaming profits were \$543.4 million. In FY 2008-09, the State received \$122.2 million from tribes under the revenue sharing provisions of the negotiated gaming compacts.

The Division conducts on-site financial and compliance audits for each tribe to independently verify the amounts wagered on Class III gaming and to ensure that casino operations are consistent with standards established in the gaming compacts. From January 2007 through December 2009, the Division conducted 67 financial audits and 50 compliance audits, and it identified a total of \$4.0 million in tribal underpayments to the State. We analyzed a random selection of working papers associated with audits completed in 2009. The documentation we reviewed was complete and accurate. In December 2009, the last operating greyhound racetrack in Wisconsin—Dairyland Greyhound Park—was closed. Statutes continue to authorize pari-mutuel racing in the State, but the Division has not received applications from businesses seeking to operate racing venues.

We appreciate the courtesy and cooperation extended to us by the Division. The Division's response follows the appendix.

Respectfully submitted,  
*JANICE MUELLER*  
State Auditor

State of Wisconsin  
Legislative Audit Bureau  
Madison

August 12, 2010

To the Honorable, the Assembly:

As required by [2005 Wisconsin Act 125](#), we have reviewed the pupil test score data provided to us by the School Choice Demonstration Project, which is a group of privately funded education researchers who are studying the Milwaukee Parental Choice Program. The Choice program provides publicly funded private school tuition for low-income children in Milwaukee.

Project researchers are conducting a five-year longitudinal study of Choice and Milwaukee Public Schools (MPS) pupils first selected in the 2006-07 school year. The representative sample includes 2,727 Choice pupils who were in the third through ninth grades in fall 2006 and a comparable group of 2,727 MPS pupils. The researchers are tracking changes in Wisconsin Knowledge and Concepts Examination scores and determining how participation in the Choice program affects changes in academic achievement.

We reviewed the project's data for the 2008-09 school year, which is the third year the researchers arranged for the Wisconsin Knowledge and Concepts Examination to be administered to Choice pupils. We analyzed and generally confirmed the analyses that they reported in April 2010, which show no significant difference in the performance of Choice pupils and similar MPS pupils after three years. However, we note that only 1,097 of the 2,727 Choice pupils in the researchers' sample, or 40.2 percent, remained in Choice schools in the 2008-09 school year.

As we discussed in our September 2008 and August 2009 reports, we are unable to review average pupil test scores at individual Choice schools because the project, citing confidentiality concerns, has not provided us with this type of information. As a result, we cannot provide legislators and other policymakers with information about academic performance specific to each of the 127 Choice schools that operated in the 2008-09 school year. [2009 Wisconsin Act 28](#) made several changes to the testing requirements for Choice schools, and the Wisconsin Knowledge and Concepts Examination will be administered in Choice schools beginning with the 2010-11 school year.

We appreciate the courtesy and cooperation extended to us by project researchers as we conducted this review.

Sincerely,  
*JANICE MUELLER*  
State Auditor

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State of Wisconsin  
Legislative Audit Bureau  
Madison

August 17, 2010

To the Honorable, the Assembly:

We have completed a review of the methodology the Department of Veterans Affairs (DVA) has used to establish rates for nursing home and assisted living care provided to residents of the Wisconsin Veterans Homes at King and Union Grove. This review is the first phase of our comprehensive evaluation of veterans home operations.

From January 2008 to January 2010, daily "private pay" rates for veterans in Union Grove's skilled nursing facility who do not qualify for Medical Assistance or Medicare funding have increased by 45.8 percent, which resulted in an annual cost increase of \$29,500. Private pay rates in Union Grove's assisted living facilities increased by as much as 58.6 percent for veterans and 284.6 percent for spouses living with veterans, which resulted in annual cost increases of as much as \$15,400 and \$40,500, respectively.

The unusually large rate increases in private pay rates, which contributed to the departure of at least 12 Union Grove assisted living residents since January 2010, resulted from DVA's efforts to comply with [ch. VA 6](#), Wis. Adm. Code, which requires rates to be based on the cost of care. Current rates, which were put in place in 2010, are consistent with agency officials' current interpretation of that rule, which was promulgated by the Board of Veterans Affairs in 1992. However, we note that neither administrative rules nor DVA policies specify exactly how rates should be calculated. Our report includes a recommendation for the Board to establish more specific rate-setting rules and to formally review and approve all rate-setting proposals developed by DVA staff.

From fiscal year (FY) 2004-05 through FY 2008-09, Union Grove had deficits in both its nursing and assisted living operations, while King's revenues have exceeded its expenditures. During that period, DVA transferred a total of \$21.2 million from King's operating surplus to help support Union Grove's operations. However, DVA projects net losses at both homes in FY 2010-11, which could lead to the eventual depletion of the remaining surplus funds. If the homes are to achieve financial solvency while continuing to ensure they effectively serve Wisconsin veterans, additional action by DVA will be required. In addition, we believe legislative oversight will help to ensure that DVA's actions are realistic, timely, and appropriate.

We appreciate the courtesy and cooperation extended to us by DVA in completing this review.

Sincerely,  
*JANICE MUELLER*  
State Auditor