

JOURNAL OF THE SENATE

Eighty-Fifth Regular Session

WEDNESDAY, July 7, 1982.

The chief clerk makes the following entries under the above date.

PETITIONS AND COMMUNICATIONS

State of Wisconsin
Department of State

July 6, 1982

To the Honorable, the Senate:

I have the honor to transmit to you the following information pursuant to s. 13.695(8):

Yours very truly,
VEL PHILLIPS
Secretary of State

Lobbyist Termination:

Chvala, Charles J., for Citizens Utility Board, effective June 29, 1982.

Jones, Donald G., for Wisconsin Community Action Program Assn., Inc., effective June 29, 1982

Malkasian, William E., for Wisconsin Realtors Assn. effective June 25, 1982.

Rohrer, John J., for Tavern League of Wisconsin, Inc., effective June 26, 1982

Brennan, R. Michael, for Wisconsin Education Assn. Council, effective July 3, 1982.

Oradei, Bruce, for Wisconsin Education Assn. Council, effective July 3, 1982.

Sicula, Paul E., for Wisconsin Assn. of Mutual Savings Banks, effective July 2, 1982, license expired 12/31/82.

Registration Amendment:

Change address for Wisconsin Social Services Assn. to: Paul Spencer, President, Oneida Co. Courthouse, Box 400, Rhinelander, WI 54501 (715) 362-5695

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State of Wisconsin Claims Board

July 1, 1982

Don Schneider
Senate Chief Clerk
State Capitol
Madison, Wisconsin

Dear Mr. Schneider:

Enclosed is the report of the State Claims Board covering claims heard on June 21, 1982.

The amounts recommended for payment under \$1000 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$1,000, and will submit such to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature.

Sincerely,
EDWARD D. MAIN
Secretary

State of Wisconsin Claims Board

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin, on June 21, 1982, upon the following claims:

Claimant	Amount
Town of Burlington	\$6,716.17
Town of Norway Police Department	2,868.47

In addition, the following claims were considered and decided without hearings:

Rusk County Sheriff's Dept.	\$2,488.18
David & Teri Mills	118.46
Chippewa County Sheriff's Dept.	1,314.75
Clarence Scherkenbach	78.00
Reverend Theo. Hendricks	923.20

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Milwaukee Mutual Insurance Co.	1,000
John & Karen Linehan	904.00
Ihsan Durdu	6,250.06
Peter Granlund	1,091.49

THE BOARD FINDS:

1. Town of Burlington claims \$6,716.17 for payment of aids under sec. 30.79, Stats., for its municipal water safety patrol unit in 1981. Claimant failed to meet the statutory requirements which would entitle it to receive aid, not having made its application for aid until after January 31, 1982. The legislature has established a cutoff date to allow for completion of the audits necessary to distribute the \$300,000 of limited state aids available for the purpose. Those who filed timely applications received their pro-rata share of the \$300,000, by April, 1982, and payment of this claim now would defeat the legislative intent of limiting expenditures for this purpose to \$300,000. Claimant was notified in writing on August 28, 1981 of the statutory deadline for submitting claims by January 31, 1982, but asserts its failure to timely file because of an oversight on their part. The Board concludes this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

2. The Town of Norway Police Department claims \$2,868.47 for payment of aids under sec. 30.79, Stats., for its municipal water safety patrol unit in 1981. Claimant failed to meet the statutory requirements which would entitle it to receive aid, not having made its application for aid until after January 31, 1982. The legislature has established a cutoff date to allow for completion of the audits necessary to distribute the \$300,000 of limited state aids available for this purpose. Those who filed timely applications received their pro-rata share of the \$300,000 by April, 1982, and payment of this claim now would defeat the legislative intent of limiting expenditures for this purpose to \$300,000. Claimant was notified in writing on August 28, 1981, of the statutory deadline for submitting claims by January 31, 1982, but asserts its failure to timely file because of an oversight on their part. The Board concludes this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

3. Rusk County Sheriff's Department claims \$2,488.18 for payment of aids under sc.350.12(4), Stats., for its snowmobile enforcement patrol unit in 1980. Claimant failed to meet the statutory requirements which would entitle it to receive aid, not having made its application for aid until after February 1, 1981. The

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legislature established a cutoff date to allow for completion of the audits necessary to distribute the \$100,000 of limited state aids available for this purpose. Those who filed timely claims received their share of the \$100,000 by April, 1981, and payment of this claim now would defeat the legislative intent of limiting expenditures for this purpose to \$100,000. Claimant was notified in writing on December 8, 1980, of the statutory deadline for filing claims by the following February 1, 1981, but asserts its failure to timely file because the County was not aware that their audit was to have been submitted or that it had not been mailed on the required date. The Board concludes the claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

4. David & Teri Mills of Oregon claim \$118.46 for damages incurred to their automobile on December 19, 1980, resulting from the theft of their automobile by a Cuban youth who was living in temporary foster care in claimant's home. The foster boy took claimants' keys and drove the automobile approximately 80 miles before driving into a ditch, where the car was found by the Dane County Sheriff's Department. Foster parents are responsible for exercising supervision over the foster child on a daily basis, and primary responsibility for the damages rests with the foster child and the claimants. There is no evidence of negligence on the part of the state, its officers, agents, or employes and this claim is not one for which the state should assume and pay based on equitable principles.

5. Chippewa County Sheriff's Department claims \$1,314.75 for payment of aids under sec. 30.79, Stats., for its municipal water safety patrol unit in 1981. Claimant failed to meet the statutory requirements which would entitle it to receive aid, not having made its application for aid until after January 31, 1982. The legislature has established a cutoff date to allow for completion of the audits necessary to distribute the \$300,000 of limited state aids available for the purpose. Those who filed timely applications received their pro-rata share of the \$300,000, by April, 1982, and payment of this claim now would defeat the legislative intent of limiting expenditures for this purpose to \$300,000. Claimant was notified in writing on August 28, 1981 of the deadline for submitting claims by January 31, 1982, but asserts its failure to timely file because they were unable to locate the arrest reports until too late to meet the deadline. The Board concludes this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

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6. Clarence Sherkenbach of Milwaukee claims \$78.00 for damage to his boat during August, 1981, while moored on Lulu Lake in Waukesha County. The Eagle Spring Lake Sanitary District received a permit from the Department of Natural Resources authorizing the temporary drawdown of Eagle Spring Lake, under s.31.02, Stats., which is connected by a stream with Lulu Lake. The permit authorized a drawdown of 1 1/2 feet over a period of four days for the purpose of providing the opportunity for the lake property owners to clean up and repair the shoreline. A public announcement of the drawdown was given in a local weekly paper by the lake sanitary district and also in the official county daily paper prior to the drawdown. The Board concludes there has been no showing of negligence on the part of the state, its officers, agents or employes, and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

7. Reverend Theo. Hendricks of Manitowoc claims \$923.20 for damages to an automobile incurred on May 15, 1981, when a ward of the state forced entry into claimant's home and took the keys to his automobile. The ward was a Cuban refugee who lived under claimant's foster care until April 8, 1981. The ward drove claimant's car to Milwaukee where he had an accident and left the scene. Late in May, 1981, the ward again returned to claimant's home and took his automobile necessitating further damages and the vehicle has now been junked. The Board concludes the claim should be paid in the reduced amount of \$300, based on equitable principles. The Board further concludes that under the authority of s. 16.007(6m), Stats., payment of this claim shall be made from the Department of Health and Social Services appropriation s. 20.435(4)(n), Stats.

8. Milwaukee Mutual Insurance Company claims \$1,000 subrogation damages. Its insured, Delores Gano, submitted a claim to the insurance company for damages to her automobile incurred in June 5, 1980. The damage was caused by a child in the custody of the Department of Health and Social Services, when the automobile he was driving hit Ms. Gano's vehicle from behind while she was stopped at an intersection waiting to turn left. There is no satisfactory evidence of negligence on the part of officers, agents, or employes of the state. The loss incurred was a risk assumed by the insurance company and payment of this claim would be inconsistent with a long-standing policy of the Board in denying equitable recovery on all subrogation claims. The Board concludes the claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

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9. John & Karen Linehan of Waukesha claim \$904.00 for income taxes paid on the gain on the sale of their residence in 1980. In 1977, when claimants contracted to build a new home, they used their prior home as collateral for down payment. Claimants allege that the poor housing market and economy prevented the sale of the first home for two years until Spring, 1980. Because of the two year delay in selling the home, the two year capital gains statute of limitations had expired and claimants were required to pay extra taxes on their 1980 income tax return. The Board concludes there has been no showing of negligence on the part of the state, its officers, agents, or employes, and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

10. Ihsan Durdu of Madison claims \$6,250.06 for injuries he allegedly sustained as a result of a slip and fall in the University of Wisconsin-Madison Sellery Hall on May 13, 1981. Claimant was approaching the bathroom area when he slipped on the tiled floor and suffered a broken hip. Water had been left on the floor by two residents of the Hall who were cleaning fish during the night. Claimant alleges \$6,250.06 in medical bills, \$5,162.97 of which has been covered through insurance. The Board concludes there has been an insufficient showing of negligence of the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

11. Peter Granlund of Iron River, claims \$200 for the insurance deductible on damages to his vehicle, \$560 for two weeks lost wages, and \$431 for lost or broken tools, as a result of an accident occurring on August 2, 1980. Claimant was driving on Highway 2, three miles East of Brule, and became involved in a one-car accident due to slippery road conditions. The cause of the accident was a wet tar spot on the roadway. The Board concludes the claim in the reduced amount of \$1,000 should be paid, based on equitable principles. The Board further concludes that under the authority of s. 16.007(6m), Stats., that payment of this claim shall be made from the Department of Transportation appropriation s.20.395(3) (eq), Stats.

THE BOARD CONCLUDES:

1. The claims fo the following claimants should be denied:
Town of Burlington
Town of Norway Police Department
Rusk County Sheriff's Department
David & Teri Mills

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Chippewa County Sheriff's Department
Clarence Scherkenbach
Milwaukee Mutual Insurance
John & Karen Linehan
Ihsan Durdu

2. Payment of the following amounts to the following claimants is justified under s.16.007, Stats.:

Reverend Theo. Hendricks	\$300.00
Peter Granlund	1,000.00

Dated at Madison, Wisconsin, this 1st day of July, 1982.

GERALD D. KLECZKA
Senate Finance Committee

VIRGIL D. ROBERTS
Assembly Finance Committee

PAUL J. SWAIN
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of
Administration

WILLIAM H. WILKER
Representative of Attorney
General

State of Wisconsin
Department of Natural Resources

June 30, 1982

Donald J. Schneider
Senate Chief Clerk
State Capitol
Madison, Wisconsin

To the Honorable, the Senate

I am pleased to forward to you the Department of Natural Resources' Surface Water Survey Report. This was completed in accord with Section 2038(2) of Chapter 20, Laws of 1981, a nonstatutory provision included in the biennial budget requesting the Department of Natural Resources to work with the Department of Administration to study the need for a surface water survey appropriation to investigate surface water quantity and quality in Wisconsin. Section 2038(2) was an outgrowth of a research and

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planning project conducted by the Department of Administration, Division of State Executive Budget and Planning in partial fulfillment of s. 16.967, Wis. Stats. However, the Department of Administration provided no staff for this project because budget reductions eliminated most of the planning staff.

No budget or appropriation changes are necessary or recommended based upon the analyses conducted during this study. The report does, however, identify some program management changes within DNR which will improve surface water data collection efficiency and effectiveness.

If you have any questions concerning the content or the recommendations of the report, please feel free to contact me or John Hagman in our Office of Planning and Analysis (266-2130).

Sincerely,
C.D. BESADNY
Secretary

SENATE CLEARINGHOUSE ORDERS

Clearinghouse Rule 82-37

AN ORDER to create ch. Med 17, relating to standards of dispensing prescription drugs.

Submitted by Department of Regulation and Licensing.

Report received from agency, July 2, 1982.

Referred to committee on Human Services, July 7, 1982.

Clearinghouse Rule 82-42

AN ORDER to amend Bkg 7.01 (2) (d) and 80.25; and to create ch. Bkg 3, relating to parity, real estate mortgage loans and interest rates.

Submitted by Office of the Commissioner of Banking.

Report received from agency, July 2, 1982.

Referred to committee on Aging, Business and Financial Institutions and Transportation, July 7, 1982.

Clearinghouse Rule 82-90

AN ORDER to create Ind 201.07 (8) (f), relating to notice to migrant labor camp occupants of pesticide applications.

Submitted by Department of Industry, Labor and Human Relations.

Report received from agency, July 6, 1982.

Referred to committee on Labor, Government, Veterans Affairs and Tourism, July 7, 1982.

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Clearinghouse Rule 82-101

AN ORDER to repeal ch. Ret 3, relating to reporting to the Wisconsin retirement system.

Submitted by Department of Employee Trust Funds.

Report received from agency, July 2, 1982.

Referred to committee on Labor, Government, Veterans Affairs and Tourism, July 7, 1982.

State of Wisconsin
Revisor of Statutes Bureau
Madison, Wisconsin

July 1, 1982

Donald J. Schneider
Senate Chief Clerk
State Capitol
Madison, Wisconsin

Dear Mr. Schneider:

The following rules have been published and are effective:

- Clearinghouse Rule 80- 16 effective July 1, 1982.
- Clearinghouse Rule 81- 33 effective July 1, 1982.
- Clearinghouse Rule 81-125 effective July 1, 1982.
- Clearinghouse Rule 81-142 effective July 1, 1982.
- Clearinghouse Rule 81-211 effective July 1, 1982.
- Clearinghouse Rule 81-219 effective July 1, 1982.
- Clearinghouse Rule 81-220 effective July 1, 1982.
- Clearinghouse Rule 81-230 effective July 1, 1982.
- Clearinghouse Rule 81-235 effective July 1, 1982.
- Clearinghouse Rule 81-241 effective July 1, 1982.
- Clearinghouse Rule 81-242 effective July 1, 1982.
- Clearinghouse Rule 82- 7 effective July 1, 1982.
- Clearinghouse Rule 82- 9 effective July 1, 1982.
- Clearinghouse Rule 82- 13 effective July 1, 1982.
- Clearinghouse Rule 82- 14 effective July 1, 1982.
- Clearinghouse Rule 82- 21 effective July 1, 1982.
- Clearinghouse Rule 82- 22 effective July 1, 1982.
- Clearinghouse Rule 82- 26 effective July 1, 1982.
- Clearinghouse Rule 82- 48 effective July , 1982.
- Clearinghouse Rule 82- 49 effective July 1, 1982.
- Clearinghouse Rule 82- 65 effective July 1, 1982.

Sincerely,

GARY L. POULSON
Assistant Revisor

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