

CHAPTER 344, Laws of 1977

AN ACT to amend 20.865 (1) (fm) and 165.25 (6); and to create 895.47 of the statutes, relating to state assumption of general public liability claims against the Wisconsin state agencies building corporation and the Wisconsin state public building corporation and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.865 (1) (fm) of the statutes is amended to read:

20.865 (1) (fm) *Risk management.* A sum sufficient to pay settlements made pursuant to under s. 165.25 (6), the costs incurred under ss. 285.04 and, 895.46 (1) and 895.47 including any judgments, investigative and adjustment fees and the cost of insurance contracts arranged by the department of administration to protect the state against risk of loss as provided under s. 16.865. The department of administration shall biennially on July 1 of the even-numbered years allocate as a charge to state agencies a proportionate share of the estimated costs under ss. 16.865 and 895.46 (1) to respective appropriations as provided under pars. (lm) and (vm). Such sums as are received from state agencies under pars. (lm) and (vm) shall be deposited in the general fund as general purpose revenue earned as provided in the introductory paragraph.

SECTION 2. 165.25 (6) of the statutes is amended to read:

165.25 (6) ATTORNEY FOR STATE EMPLOYEES. At the request of the head of any department of state government, the attorney general may appear for and defend any state officer or employe of ~~such the~~ department in any civil action or civil proceeding brought against ~~such the~~ officer or employe for or on account of any act growing out of or committed in the lawful course of the officer's or employe's duties. Witness fees or other expenses determined by the attorney general to be reasonable and necessary to the defense in ~~such the~~ action or proceeding shall be paid as provided for in s. 885.07. The attorney general may compromise and settle ~~such the~~ action as the attorney general determines to be in the best interest of the state. Agents Members, officers and employes of the Wisconsin state agencies building corporation, the Wisconsin state public building corporation and agents of any department shall be covered by this section while acting within the scope of any written agreement entered into prior to the occurrence of any act which results in a civil action or civil proceeding.

SECTION 3. 895.47 of the statutes is created to read:

895.47 Indemnification of the Wisconsin state agencies building corporation and the Wisconsin state public building corporation. If the Wisconsin state agencies building corporation or the Wisconsin state public building corporation is the defendant in an action or special proceeding in its capacity as owner of facilities occupied by any department or agents of any department of state government, the judgment as to damages and costs shall be paid by the state from the appropriation made under s. 20.865 (1) (fm). The state, when it does not provide legal counsel to the defendant, its members, officers or employes, shall pay reasonable attorney fees and costs of defending the action regardless of the results of the litigation, unless the court or jury finds that the member, officer or employe did not act within the scope of that person's employment. Failure by the defendant to give notice to the department of justice of an action or special proceeding commenced against it, its members, officers or employes as soon as reasonably possible shall bar recovery by the defendant, its members, officers or employes from the state

under this section. Attorney fees and expenses may not be recovered if the state offers the member, officer or employe legal counsel and the offer is refused.
