

State of Misconsin 2011 - 2012 LEGISLATURE



# 2011 SENATE BILL 188

September 15, 2011 – Introduced by Senator HARSDORF, cosponsored by Representative MURTHA. Referred to Joint Committee on Finance.

1 AN ACT relating to: expenditure of \$129,693.02 from the general fund in

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payment of a claim against the state made by Workforce Resource, Inc.

## Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$129,693.02 from the general fund in payment of a claim against the Department of Workforce Development (DWD) and the Department of Administration (DOA) by Workforce Resource, Inc. The claimant asserts that, at the behest of DWD, it executed a master lease agreement with a third party for a facility in the city of River Falls to be occupied by DWD in 2006 and made modifications to the facility to meet DWD's specifications. DWD then occupied the modified space in the facility for use as a state job center. The claimant attempted to negotiate and execute a written sublease with DWD for the occupied space but was unsuccessful. DWD made rental payments to the claimant on a month-to-month basis during its occupancy and then vacated the premises in June 2008. The claimant asserts that there was an unsigned lease agreement between the claimant and the state, as represented by DWD and DOA. Although certain formal requisites are necessary under Wisconsin law for a lease agreement to be enforceable, s. 706.04, stats., provides that if all of the elements of a transaction are clearly and satisfactorily proved, the transaction may be enforceable under certain conditions by a court using its equitable powers. DWD and DOA assert that since under state law DWD has no authority to lease property without the approval of DOA, any implicit agreement by DWD is not enforceable against the state. They also assert that there was a disagreement between the claimant and the state over the rental amount and the claimant's acceptance of a reduced amount on a month-to-month basis

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constitutes acceptance of the state's position concerning the rental amount. The claimant claimed \$129,693.02, based upon underpayment of rental payments by the state during its occupancy of the facility and full rental payments for the remainder of the term of occupancy (August 31, 2011), because the modified space was not readily rentable to another tenant and therefore remained vacant after DWD terminated its occupancy. This claim was presented to the claims board in the amount of \$120,833.12 and was denied (see 2009 Senate Journal, p. 817).

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

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## SECTION 1. Claim against the state.

 $\mathbf{2}$ (1) There is directed to be expended from the appropriation under section 20.505 (4) (d) of the statutes, as affected by the acts of 2011, \$129,693.02 in payment 3 of a claim against the state made by Workforce Resource, Inc., Menomonie, 4 Wisconsin, as reimbursement for expenses incurred during the period from 2006 to  $\mathbf{5}$ 6 2011 in modifying a facility in the city of River Falls for occupancy by the department of workforce development, which the department occupied for 21 months, and in  $\mathbf{7}$ absorbing the costs of vacant space intended for use by the department during the 8 9 term of a 5-year unsigned sublease. The claimant asserts that it incurred costs based upon assurances of occupancy and payment of certain costs by the department 10 11 and is equitably entitled to payment. Acceptance of this payment releases this state 12and its officers, employees, and agents from any further liability resulting from express or implied agreements to modify or occupy this facility or to make any rental 13payments during the period ending on August 31, 2011. 14

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(END)