



## 2007 ASSEMBLY BILL 446

July 3, 2007 - Introduced by Representatives HINES, A. OTT, ALBERS, TOWNSEND, MUSSEY and PETROWSKI, cosponsored by Senator OLSEN. Referred to Committee on Agriculture.

1     **AN ACT to repeal** 174.11 (2) (a) and 174.12 (6); **to renumber and amend** 174.12  
2           (2); **to amend** 174.09 (1), 174.09 (2), 174.09 (3), 174.11 (1), 174.11 (2) (b), 174.11  
3           (3) and 174.12 (1); and **to create** 174.09 (1m) of the statutes; **relating to:**  
4           reimbursement for damages caused by dogs and the use of funds derived from  
5           the licensing of dogs.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, the owner of a farm animal, dog, or cat that was injured or killed by another person's dog may, within three days of becoming aware of the incident, file a claim with the city, village, or town in which the incident occurred. The city, village, or town is required to investigate the claim and provide a report on the investigation to the county clerk. The county clerk submits the claim and the report to the county board and the county board decides whether to make a payment to the owner as compensation for the injury or death of the animal. If there is no money in the dog license fund, described below, the county is not required to make any payment. If the county makes a payment, it may sue the owner of the dog for the amount of damages that the dog caused.

Under this bill the owner of a farm animal, dog, or cat that was injured or killed by another person's dog may make a claim for the damage if the owner notifies the county sheriff and files the claim with the county clerk within five business days of becoming aware of the incident. The bill eliminates the role of the city, village, or town in processing a dog damage claim.

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Current law requires a person who owns a dog to have the dog licensed. The statutes establish a minimum fee for a dog license but authorize higher fees to be charged by municipalities and counties. The dog license fees are collected by municipalities. A municipality keeps any amount of the fee that it imposes above the minimum and pays the rest to the county. The law requires the county to pay 5 percent of the minimum dog license fee to the state and to keep the remainder of the fee in a separate dog license fund. The county may use the dog license fund for administering the dog license law and for the expenses of a pound for dogs run by the county or a humane society. The law also authorizes a county to use any remaining money in the dog license fund to pay claims for damages caused by dogs to farm animals, dogs, or cats.

This bill requires a county to place into a separate dog damage reimbursement fund 25 percent of the dog license fees that remain after making the required 5 percent payment to the state. This fund may be used only to pay claims by persons whose farm animals, dogs, or cats are injured by dogs, except that on March 1 any funds from fees paid for dog licenses for the previous year that have not been used to pay dog damage claims may be returned to the dog license fund and used for the purposes allowed under current law.

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

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

1           **SECTION 1.** 174.09 (1) of the statutes is amended to read:

2           174.09 (1) ~~Except as provided in sub. (3), the~~ The dog license taxes so paid to  
3 the county treasurer or intergovernmental commission under s. 174.08 shall be kept  
4 placed in a separate account and shall to be known as the “dog license fund” and shall  
5 be appropriated and disbursed for the purposes and in the manner ~~following: Within~~  
6 ~~30 days after receipt of the same, the~~ provided in this section. The county treasurer  
7 or intergovernmental commission shall pay into the state treasury ~~5%~~ 5 percent of  
8 the minimum tax as provided for under s. 174.05 (2) of all dog license taxes ~~which~~  
9 ~~shall have been~~ that are received by the county treasurer or intergovernmental  
10 commission, within 30 days after their receipt. The county treasurer or  
11 intergovernmental commission shall place 25 percent of the remainder of the dog

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1 license taxes into a separate account to be known as the dog damage reimbursement  
2 fund.

3 **SECTION 2.** 174.09 (1m) of the statutes is created to read:

4 174.09 (1m) A county or an intergovernmental commission may use the dog  
5 damage reimbursement fund only to pay claims allowed by the county or  
6 intergovernmental commission under s. 174.11 to the owners of domestic animals  
7 because of damages done by dogs, except that on March 1 of the year following the  
8 license year for which dog license taxes were paid, the county or intergovernmental  
9 commission may transfer any amount remaining in the dog damage reimbursement  
10 fund from that license year to the dog license fund.

11 **SECTION 3.** 174.09 (2) of the statutes is amended to read:

12 174.09 (2) Except as provided in sub. (3), expenses necessarily incurred by the  
13 county in purchasing and providing books, forms, and other supplies required in  
14 administering the dog license law, expenses incurred by the county under s. 95.21 (4)  
15 (b) and (8) and expenses incurred by the county pound or by a humane society or other  
16 organization designated to provide a pound for collecting, caring for, and disposing  
17 of dogs may be paid out of the dog license fund. The amount remaining in the fund  
18 after deducting these expenses shall be available for and may be used as far as  
19 necessary for paying claims allowed by the county to the owners of domestic animals  
20 because of damages done by dogs during the license year for which the taxes were  
21 paid. Any surplus in excess of \$1,000 which may remain from the dog license taxes  
22 of any license year shall on March 1 of the succeeding year be paid by the county  
23 treasurer to the county humane society or other organization designated by the  
24 county board to provide a pound. If there is no humane society or other organization  
25 designated to provide a pound, these funds shall be paid to the towns, villages, and

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1 ~~cities of the county for their use in the proportion in which the towns, villages, and~~  
2 ~~cities contributed to the fund out of which the surplus arises.~~

3 **SECTION 4.** 174.09 (3) of the statutes is amended to read:

4 174.09 (3) In a county in which an agreement under s. 174.10 (2) is in effect,  
5 the intergovernmental commission shall maintain the dog license fund, ~~consisting~~  
6 ~~of the dog license taxes.~~ The intergovernmental commission shall pay 5% of the  
7 minimum dog license tax provided for under s. 174.05 (2) to the department and shall  
8 expend the remainder of the dog license fund for the purposes of administering the  
9 dog license law, providing a pound for dogs, and paying claims allowed under s.  
10 174.11. ~~If on March 1 there is remaining in the dog license fund a surplus from the~~  
11 ~~dog license taxes of the previous license year that exceeds 5% of the dog license taxes~~  
12 ~~collected in that license year, the intergovernmental commission shall return the~~  
13 ~~excess to the towns, villages, and cities of the county in the proportion in which the~~  
14 ~~towns, villages, and cities contributed to the fund in that license year.~~

15 **SECTION 5.** 174.11 (1) of the statutes is amended to read:

16 174.11 (1) The owner of any domestic animal, including a ranch mink, when  
17 it is proven that a dog forcibly entered an enclosure in which the mink was kept,  
18 which is attacked, chased, injured, or killed by a dog may, within 3 5 business days  
19 after the owner has knowledge or notice thereof, notify the county sheriff and file a  
20 written claim for damages with the county clerk of the town, village, or city in which  
21 the damage occurred or, if it occurred in a town or village, with the chairperson of  
22 such town or the president of such village. The form of the claim may be prescribed  
23 by the department of agriculture, trade and consumer protection. ~~Upon presentation~~  
24 ~~of a claim the supervisors of the town, the board of trustees of the village, or the~~  
25 ~~common council of the city, or a committee appointed for that purpose by the~~

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1 supervisors, the board of trustees, or the common council shall promptly investigate  
2 the claim and may subpoena witnesses, administer oaths, and take testimony  
3 relative to the claim and shall within 30 days after the filing of the claim make,  
4 certify, and return to the county clerk or, in a county in which an agreement under  
5 s. 174.10 (2) is in effect, to the intergovernmental commission the claim, a report of  
6 the investigation, the testimony taken, and the amount of damages suffered by the  
7 owner of the domestic animal.

8 **SECTION 6.** 174.11 (2) (a) of the statutes is repealed.

9 **SECTION 7.** 174.11 (2) (b) of the statutes is amended to read:

10 174.11 (2) (b) Except as provided in par. (c), the county clerk shall submit to the  
11 county board at its first meeting, following the receipt of any such claim under sub.  
12 (1), all claims filed and reported, and the claims shall be acted upon and determined  
13 by the county board as other claims are determined and acted upon. Except as  
14 provided in par. (c), the amount of damages filed and reported to the county clerk  
15 shall be prima facie proof of the actual damages sustained, but evidence Evidence  
16 may be taken before the county board relative to the claims as in other cases, and  
17 appeals from the action of the county board shall lie as in other cases. A county or  
18 an intergovernmental commission may not allow any claim on account of damages  
19 done by a dog, unless the claimant furnishes satisfactory proof that the damage was  
20 not done in whole or in part by any dog owned, kept, or harbored by the claimant.

21 **SECTION 8.** 174.11 (3) of the statutes is amended to read:

22 174.11 (3) The claims shall be solely against the dog damage reimbursement  
23 fund and the dog license fund and shall create no other liability on the part of the  
24 county.

25 **SECTION 9.** 174.12 (1) of the statutes is amended to read:

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1           174.12 (1) The allowance by a county of any claim for damages done by dogs  
2 constitutes an assignment to the county of the cause of the action of the claimant for  
3 which the claim is filed, and the county may sue and recover from the owner of the  
4 dog or dogs doing the damages the full amount thereof and which shall not be limited  
5 to the sum paid the claimant by the county. The allowance under s. 174.11 (2) (c) by  
6 an intergovernmental commission of any claim for damages done by dogs constitutes  
7 an assignment to the intergovernmental commission of the cause of the action of the  
8 claimant for which the claim is filed, and the intergovernmental commission may sue  
9 and recover from the owner of the dog or dogs doing the damages the full amount  
10 thereof and which shall not be limited to the sum paid the claimant by the  
11 intergovernmental commission. ~~Before any claim shall be allowed by a county or an~~  
12 ~~intergovernmental commission on account of damages done by dogs, the claimant~~  
13 ~~shall furnish satisfactory proof that the damage was not done in whole or in part by~~  
14 ~~any dog owned, kept, or harbored by the claimant. A county or an intergovernmental~~  
15 ~~commission that recovers money from the owner of a dog under this subsection shall~~  
16 ~~place the amount recovered, up to the amount paid the claimant, into the dog damage~~  
17 ~~reimbursement fund.~~

18           **SECTION 10.** 174.12 (2) of the statutes is renumbered 174.11 (3m) and amended  
19 to read:

20           174.11 (3m) ~~No claim shall be allowed by~~ Except as provided under sub. (5),  
21 a county board or an intergovernmental commission may not allow a claim under this  
22 section at less than the amount ~~so certified and reported~~ claimed, unless the claimant  
23 ~~shall~~ is first be notified that such action is contemplated and ~~shall have been~~ is given  
24 a reasonable opportunity to be heard and to offer further evidence in support of the  
25 claimant's claim.

