



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1630/1
JPC:kms

2023 SENATE BILL 50

February 14, 2023 - Introduced by Senators COWLES and CABRAL-GUEVARA, cosponsored by Representatives GOEBEN and GUSTAFSON. Referred to Committee on Government Operations, Elections and Consumer Protection.

1 **AN ACT relating to:** expenditure of \$201,197.70 from the general fund for
2 payment of a claim against the state made by Pheifer Brothers Construction
3 Co., Inc.

Analysis by the Legislative Reference Bureau

This bill directs the expenditure of \$201,197.70 from the general fund in payment of a claim against the Department of Transportation by Pheifer Brothers Construction Co., Inc. The claimant entered into a contract with DOT to perform work on the 2019 Ahnapee River Bridge project in Kewaunee County associated with DOT project 4409-12-71. The claimant asserted that the subsurface conditions differed from the conditions indicated in the bidding documents and that the claimant incurred significant additional costs as a result. The claimant claimed \$201,197.70 for the cost of making multiple design changes to the project due to the differing subsurface conditions. DOT denies the claimant's assertion that there were differing subsurface conditions; asserts that the design changes were made at the claimant's request in order to facilitate fulfillment of the contract; and argues that additional compensation would be contrary to both the contract and the Wisconsin Constitution. On March 22, 2022, the Claims Board denied the claim because it concluded that the claimant has raised questions of fact with respect to the subsurface conditions of the project that are better evaluated by a court of law (see 2021 *Senate Journal*, p. 944-45).

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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:

1 **SECTION 1. Claim against the state.**

2 (1) There is directed to be expended from the appropriation under s. 20.505 (4)
3 (d) \$201,197.70 in payment of a claim against the state brought by Pheifer Brothers
4 Construction Co., Inc., Neenah, WI 54956, as reimbursement for work performed on
5 department of transportation project 4409-12-71. Acceptance of this payment
6 releases this state and its officers, employees, and agents from any further liability
7 resulting from work performed by the claimant on department of transportation
8 project 4409-12-71.

9 **(END)**