

JOURNAL OF THE SENATE [July 3, 1969]

STATE OF WISCONSIN

Senate Journal

Seventy-Ninth Session

THURSDAY, July 3, 1969.

9:00 o'clock A.M.

The senate met.

The senate was called to order by the clerk.

Upon motion of Senator Risser, with unanimous consent, Senator Kendziorski was selected as presiding officer.

Senator Kendziorski in the chair.

The senate remained standing for a moment of silent prayer.

The calling of the roll was dispensed with, upon motion of Senator Roseleip, with unanimous consent.

INTRODUCTION OF AMENDMENTS

Senate amendment 1 to Senate Bill 546 offered by Senator Hollander.

INTRODUCTION OF BILLS

Senate Bill 606

Relating to in lieu payments by subdividers.

By Senator Soik, by request of Wisconsin Builders Association.

Read first time.

To committee on Governmental and Veterans' Affairs.

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Senate Bill 607

Relating to labor negotiators in cities.

By Senator Cirilli.

Read first time.

To committee on Labor, Taxation, Insurance and Banking.

PETITIONS AND COMMUNICATIONS

Senate Petition 403

A petition by 20 concerned citizens, Milwaukee area, supporting Senate Bill 222, which would restore 35% of the Liquor Tax to the Veterans Trust Fund.

By Senator Soik.

Read.

To committee on Governmental and Veterans' Affairs.

The State of Wisconsin
Department of State
Madison 53702

July 1, 1969.

To the Honorable, the Senate

Gentlemen: I have the honor to transmit to you, pursuant to Section 13.67 (2), a list of registered lobbyists for the period beginning June 24, 1969, and ending June 30, 1969.

Yours very truly,

ROBERT C. ZIMMERMAN,
Secretary of State.

Name, Address and Occupation of Lobbyist—Name and Address of Employer—Subject of Legislation—Date of Employment—Length of Time of Employment.

Alidor L. Vanderport, Dean of Students, 4980 S. Courtland, New Berlin, Wis.—Board of Vocational, Technical and Adult Education, Milwaukee, Wisconsin—Vocational, Technical and Adult Education—June 26, 1969—Session.

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Stephen J. Hajduch, Lawyer, 717 Brumder Bldg., 135 W. Wells St., Milwaukee, Wis.—International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers Local 1509, 615 Clark St., S. Milwaukee, Wis.—Matters in relation to labor—June 20, 1969—Session.

**State of Wisconsin
Claims Board**

June 25, 1969.

Mr. William P. Nugent
Senate Chief Clerk
State Capitol
Madison, Wisconsin 53702

Dear Mr. Nugent:

The State Claims Board is submitting this report to you in accordance with the provisions of Section 15.94 of the statutes covering claims heard by it.

The amounts recommended for payment under \$500 on claims included in this report have, therefore, under the provisions of the statutes, been paid directly by the Board. The Board will prepare the bill covering the claim over \$500 recommended for payment and submit it to the Joint Finance Committee for legislative introduction. This report is for the information of the legislature.

The Claims Board will appreciate your acceptance of this report and the spreading of it upon the Journal to inform the members of the Legislature as to the nature of the type of claims which come before the Board for its consideration.

Sincerely,
GLEN E. POMMERENING,
Secretary.

**BEFORE THE CLAIMS BOARD
OF WISCONSIN**

Hearings were held at Madison, Wisconsin on September 17, 1968, April 11, 1969 and May 19, 1969 upon the following claims:

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<i>Name of Claimant</i>	<i>Amount of Claim</i>
1. Norman Mayer -----	\$ 350.00
2. American Family Insurance Group ----	580.00
3. American Family Mutual Insurance Company -----	66.34
4. Edward Charles -----	234.80
5. City of Milwaukee -----	2,523.91
6. Gepner Semi Truck Leasing -----	3,569.00
7. Wisconsin Telephone Co. -----	542.97
8. A. M. Yankers -----	90.66
9. Heritage Mutual Insurance Co. -----	315.00
10. Veronica Pirolo -----	424.50
11. Robert G. Keyes -----	423.19
12. Louise E. Thompson Cooper -----	46,000.00
13. Tartan Machines, Inc. -----	204.75
14. Sigwald Olson -----	30.00
15. E. A. Dawdy and Glenn Palmer -----	20,000.00
16. Frank J. Balthazor -----	90.75
17. Leonard A. Cody -----	29.00
18. General Telephone Company -----	89.53
19. Sandra Url -----	26.95
20. Mrs. Annie Walton -----	154.50
21. Rural Mutual Insurance Co. -----	192.89
Sparta Area Schools -----	49.42
22. Joseph La Belle -----	3,000,000.00

THE BOARD FINDS

1. *Norman A. Mayer* heretofore claimed \$350.00 for loss of a heifer which became impaled upon a right of way stake set by survey crews of the Division of Highways. The matter was initially heard September 17, 1968 and disapproved. Upon reconsideration on additional evidence it was determined that the Board erred in its finding that the State of Wisconsin had already acquired the land in question. The claim is, therefore, one which the State should assume and pay in the sum of \$300.00 which the Board finds to be a fair value for the animal lost.

2. *American Family Insurance Group* claims \$580.00 on behalf of their insured James Breitenfeldt for damages sustained to the automobile of said insured and to the automobile of another damaged in an accident July 14, 1968

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one mile south of Langlade County line on State Highway 45. The collision was allegedly caused by a slick condition of the highway and resulting hazardous condition.

While it appears that the condition of the highway was not entirely satisfactory, the State Highway Department had made every effort to improve the condition of the highway and had posted warning signs in the area, one such warning sign having been posted within 600 feet of the location of the accident. There is no showing of negligence on the part of employes of the State of Wisconsin and the claim is not one which, upon equitable principles, the State should assume and pay.

3. *American Family Mutual Insurance Company* claims \$66.34 on behalf of their insured Walter Cronce for damages to his vehicle which occurred October 17, 1968 on Highway 187, 6 miles north of Shiocton, Wisconsin. At that point the insured had pulled off the roadway to permit a highway road painting vehicle to pass. The insured subsequently found yellow paint on the left side of his automobile which he reported to the Waupaca Highway Department.

While there is no showing of negligence on the part of the employes of the State of Wisconsin, the claim is one which, in good conscience, the State should assume and pay in the sum of \$66.34 inasmuch as the insured had taken all steps to protect his own property.

4. *Edward Charles* claims \$234.80 for the loss of a cow on August 6, 1968. The State of Wisconsin had previously constructed an underpass under State Trunk Highway 57 to permit Mr. Charles to move his animals across the road. The ramp by which the cattle entered said underpass had a grade of approximately 45° and became slippery when wet. Such conditions caused the claimant's cow to fall and break its leg requiring the destruction of the animal. It appears that the loss of the animal was directly related to the inadequacy of the underpass and the State should assume and pay to the claimant the sum of \$184.80, which the Board finds is the fair value of the animal.

5. *City of Milwaukee* claims \$2,523.91 for damages to its police and fire communication cable in the area of South

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Fourth Street and West Burnham Street in the City of Milwaukee. The cable was damaged by a highway commission subsoil boring crew which was taking soil samples in that area pursuant to agreement with the Milwaukee County Expressway Commission.

Inasmuch as the boring crew knew or should have known that there were underground cables in the area, the damage must be attributed to negligence of employes of the State of Wisconsin and the State should therefore assume and pay the sum of \$2,523.91.

6. *Gepmer Semi Truck Leasing* claims \$3,569.00 for damage to their trailer on October 12, 1967. Damage was sustained when the vehicle of the claimant struck an overhead angle brace on the Clinton Street Bridge in the City of La Crosse, Wisconsin.

While the semi trailer was well within the limitations as to maximum vehicle height, Sec. 348.06, Wis. Stats., provides that limitations on total height are not to be construed as requiring a clearance of such height on the part of the State. The claim is not one which, upon equitable principles, the State should assume and pay.

7. *Wisconsin Telephone Company* claims \$542.97 as damages to telephone cables caused by employes of the State Highway Commission while digging holes for the concrete bases for stop and go light standards. The damage occurred October 3, 1968 at the intersection of Elm Grove Road and Bluemound Road, Elm Grove, Wisconsin.

The highway crew was aware of the location of the telephone company's conduit but failed to take precautions to avoid striking same. Inasmuch as the damage was apparently due to the negligence of the employes of the State of Wisconsin, the claim is one which, upon equitable principles, the State should assume and pay in the amount of \$499.50.

8. *A. M. Yankers* claims \$90.66 for damages to a wheel and tire of his automobile as a result of striking a concrete block in the roadway of State Highway 35 in Bay City, Wisconsin. There is nothing to indicate that employes of the State of Wisconsin had notice of the object in the roadway nor that the object might have been on the roadway for such

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a length of time that such employes should have known of its existence. There is no showing of negligence on the part of employes of the State and the claim is not one which, upon equitable principles, the State should assume and pay.

9. *Heritage Mutual Insurance Company* claims \$315.00 for damages to the vehicle of its insured sustained in an accident with a Wisconsin National Guard vehicle on February 3, 1967. At the time of the accident the insured's vehicle was stopped in traffic and was struck from behind by the National Guard vehicle.

The damage was apparently the result of negligence of the employes of the State of Wisconsin and the State should assume and pay the sum of \$315.00.

10. *Veronica Pirolo* claims \$424.50 for personal injuries and costs sustained when her vehicle was struck from behind by a State of Wisconsin National Guard vehicle. (see claim No. 9 above) The injuries to the claimant having been caused by negligence of the State of Wisconsin, the State should in good conscience assume and pay the sum of \$50.00 representing medical costs incurred by the claimant as a result of the accident.

11. *Robert G. Keyes* claims \$423.19 for damage to his automobile while it was parked in the compound of the National Guard Armory at Elkhorn, Wisconsin. The claimant had parked his vehicle in the Armory compound while he attended summer camp during July, 1967. During the period of the claimant's absence the Armory compound was entered by vandals who damaged a number of vehicles in the compound including the claimant's from which the front wheels, tires and transmission were stolen.

The claimant was permitted to park his car in the compound as a convenience to him and there was no assumption of liability on the part of the National Guard for the safety of such vehicle. There is, further, no showing of negligence on the employes part of the State of Wisconsin and the claim is therefore not one the State should, in good conscience, assume and pay.

12. *Louise E. Thompson Cooper* claims \$46,000.00 for work performed in assisting her husband during the period

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1946 to 1961 in the area of Rice Lake, Wisconsin. Claimant's husband was, at that time, engaged in the occupation of professional engineering in Rice Lake, which occupation included designing and supervising the construction of facilities in the Rice Lake area in conformity with state and local building codes.

It must be presumed that claimant's husband was adequately compensated for the work performed at the time of construction and was responsible for the compensation of his employes. The claim is therefore not one which the State should, upon equitable principles, assume and pay.

13. *Tartan Machines, Inc.* claims \$204.75 for the loss of a Stenorette dictating machine on loan to the University of Wisconsin. The dictating machine had been loaned to the University of Wisconsin on a trial basis and was stolen during a break-in at the University on September 23, 1968.

While there is no showing of negligence on the part of employes of the University which contributed to the loss of the dictating equipment, inasmuch as the University had accepted care and custody of the machine, the claim is one which, in good conscience, the State should assume and pay.

14. *Sigwald Olson* claims \$30.00 for injuries to his person caused by a slip and fall on ice which had accumulated at the entrance of the state office building at Eau Claire, Wisconsin. There is no showing of negligence on the part of the employes of the State of Wisconsin and the claim is not one which, upon equitable principles, the State should assume and pay.

15. *E. A. Dawdy and Glenn Palmer* claim \$20,000.00 as damages for the loss of a registered Holstein bull named "Tidy Burke Mainspoke." In February 1967 the claimants entered into a contract with American Breeders Service, Inc. for the sale of said registered Holstein bull for a maximum sum of \$20,000.00. The animal was subsequently shipped from the ranch of the claimants in the State of Kansas to American Breeders Service, Inc. in Wisconsin. Upon arrival at the American Breeders Service, Inc. premises the bull was subjected to tests for tuberculosis, which tests showed the bull to be a tuberculin reactor. Officials of the American Breeders Service, Inc. advised the claim-

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ants of the fact that the bull had proven a reactor and requested instructions as to disposition of the animal since the bull did not come up to the requirements specified in the contract between American Breeders Service, Inc. and claimants. The claimants apparently took no action after having been advised of these facts and on June 14, 1967 "Tidy Burke Mainspoke" was slaughtered at the Oscar Mayer and Company facilities at the request of the Wisconsin State Department of Agriculture, Animal Health Division. In view of the fact that sec. 94.80, Wis. Stats., requires the slaughter of cattle found to be afflicted with tuberculosis the State Department of Agriculture had no alternative but to order the disposal of the animal. The claim is therefore not one which, upon equitable principles, the State should assume and pay.

16. *Frank J. Balthazor* claims \$90.75 for damages occasioned by the residence of a former Mendota State Hospital patient who resided in the home of the claimant. Since the claimant has been reimbursed by his former tenant, the claim is not one which the State should assume and pay.

17. *Leonard A. Cody* claims \$29.00 for injury sustained to his person as a result of a slip and fall on snow packed steps at the Winnebago State Hospital December 28, 1968. There is no showing of negligence on the part of employes of the State of Wisconsin and the claim is therefore not one which the State should assume and pay.

18. *General Telephone Company* claims \$89.53 for damage to its property caused by Cindy Krogman, a foster child of Dr. and Mrs. Lyle F. Schilling of Minocqua, Wisconsin. At the time of the accident the foster child who was 13 years of age drove an automobile owned by another against certain properties owned by the claimant, General Telephone Company.

There is no showing that negligence of employes of the State or of the foster parents contributed to the action of the State's ward and the claim is not one which, upon equitable principles, the State should assume and pay.

19. *Sandra Url* claims \$26.95 for damages to certain clothing which became stained by ink which the claimant

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was transporting in her personal automobile for the Department of Health and Social Services. The claimant had been requested to transport several boxes of mimeograph ink from the Ashland office of Health and Social Services to Madison and while enroute some of the ink leaked through the package and on to the clothes of the claimant. At the time the damage was sustained the claimant was acting for the State of Wisconsin and the claim is therefore one which the State should assume and pay in the sum of \$26.95.

20. *Mrs. Annie Walton* claims \$154.50 for property allegedly stolen by a foster child in the home of the claimant. The claimant and her husband were licensed foster home parents and during the month of October 1968 certain property of the claimant was found to be missing. While claimant alleges such property was taken by a foster child resident in their home at the time, there is no proof that such is the case and the child has consistently denied having taken the property. The claim is therefore not one which the State should assume and pay.

21. *Rural Mutual Insurance Company* claims \$192.89 by way of subrogation for their insured Sparta Area Schools for damage to a vehicle of the insured. *Sparta Area Schools* claims \$49.42 for damages to school property. Both claims were occasioned by boys on elopement from Wisconsin Child Center at Sparta. The boys broke into the Sparta Area Junior High School building by smashing a window. After gaining access, money was stolen and a motor vehicle driven from the building with subsequent damage to the engine of said vehicle. While the boys from the Child Center are generally regarded as wards of the State, the State is not responsible for actions of those wards while outside its control as in the case of a child on elopement. The claims are therefore not ones which the State should, in good conscience, assume and pay.

22. *Joseph La Belle* claims 3 million dollars for injuries sustained while an inmate of Milwaukee County Hospital. Since Milwaukee County Hospital is not an agency of the State of Wisconsin and its employes are hired by Milwaukee County, the claim is not one which the State, in good conscience, should assume and pay.

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THE BOARD CONCLUDES:

1. The claims of the following named claimants should be denied:

- American Family Insurance Group
- Gepner Semi Truck Leasing
- A. M. Yankers
- Robert G. Keyes
- Louise E. Thompson Cooper
- E. A. Dawdy and Glenn Palmer
- Frank J. Balthazor
- Leonard A. Cody
- General Telephone Company
- Mrs. Annie Walton
- Rural Mutual Insurance Company
- Sparta Area Schools
- Sigwald Olson
- Joseph La Belle

2. That payment to the following claimants in the following amounts is justified under provisions of section 15.94, Wis. Stats.:

Norman Mayer	\$ 300.00
American Family Mutual Insurance Co.	66.34
Edward Charles	184.80
City of Milwaukee	2,523.91
Wisconsin Telephone Company	499.50
Heritage Mutual Insurance Company	315.00
Veronica Pirolo	50.00
Tartan Machines, Inc.	204.75
Sandra Url	26.95

Dated at Madison, Wisconsin this 23rd day of June, 1969.

WALTER G. HOLLANDER,
Chairman, Senate Committee
on Finance.

BYRON WACKETT,
Chairman, Assembly Committee
on Finance.

DONALD J. STERLINSKE,
Representative of Commissioner
of Administration.

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RICHARD L. MALMGREN,
Representative of Governor.
DAVID G. McMILLAN,
Representative of Attorney General.

Upon motion of Senator Lourigan, the senate adjourned until Monday, July 7th, at 2:00 o'clock P.M.

CHIEF CLERK'S CORRECTIONS

Senate Bill 354

On page 48, line 8, substitute "(8) (e)" for "(7) (e)".

Senate Bill 440

On both page 1, line 18, and page 2, line 19, change "(xu)" to "(xa)".