

# JOURNAL OF THE SENATE

WEDNESDAY, January 7, 1976.

The chief clerk makes the following entries under the above date.

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## BILLS INTRODUCED

Read first time and referred:

### **Senate Bill 722**

Relating to creating a rural development board and making an appropriation.

By Senators Chilsen and McKenna.

To committee on Agriculture, Human Services, Labor and Taxation.

### **Senate Bill 723**

Relating to duties of county clerks and county treasurers.

By Senator Keppler, cosponsored by Representatives Potter, Bradley and Otte, by request of the Wisconsin County Treasurers Association.

To committee on Governmental and Veterans' Affairs.

### **Senate Bill 724**

Relating to payment of state aids in monthly payments, establishment of a municipal deferred aids account within the general fund and granting rule-making authority.

By Senator McKenna, by request of State Treasurer Charles P. Smith.

To joint committee on Finance.

### **Senate Bill 725**

Relating to creating a joint audit committee of the legislature.

By Senators McKenna, Knowles, Thompson, Goyke, Maurer, Flynn, Berger, Peloquin, Petri, Keppler, Dorman, Bablitch, Krueger, Chilsen, Murphy, Frank, Cullen, Morrison, Hollander, Parys and Whittow, cosponsored by Representatives Rutkowski, Donoghue and Ferrall.

To joint committee on Finance.

### **Senate Bill 726**

Relating to legislative postauditing.

By Senators McKenna, Knowles, Thompson, Goyke, Maurer, Flynn, Berger, Peloquin, Petri, Keppler, Dorman, Bablitch, Krueger, Chilsen, Murphy, Frank, Cullen, Morrison, Hollander,

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Parys and Whittow, cosponsored by Representatives Rutkowski, Donoghue and Ferrall.

To joint committee on Finance.

### **Senate Bill 727**

Relating to expanding the public service commission from 3 members to 5 members.

By Senator Berger.

To committee on Judiciary and Consumer Affairs.

### **Senate Bill 728**

Relating to disqualification of bank officials to serve as public utility officers or directors.

By Senator Berger, cosponsored by Representative Kirby.

To committee on Judiciary and Consumer Affairs.

### **Senate Bill 729**

Relating to disqualification of public utility officials as officers or directors of banks.

By Senator Berger, cosponsored by Representative Kirby.

To committee on Judiciary and Consumer Affairs.

### **Senate Bill 730**

Relating to setting maximum rates for public utilities and granting rule-making authority.

By Senator Berger.

To committee on Judiciary and Consumer Affairs.

### **Senate Bill 731**

Relating to notice to customers of proposed public utility rate increases.

By Senator Berger.

To committee on Judiciary and Consumer Affairs.

### **Senate Bill 732**

Relating to using the value of a public utility's property as a rate base.

By Senator Berger.

To committee on Judiciary and Consumer Affairs.

### **Senate Bill 733**

Relating to prohibiting automatic fuel adjustment rate increases by public utilities.

By Senator Berger.

To committee on Judiciary and Consumer Affairs.

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### **Senate Bill 734**

Relating to creating a peoples' utility counsel within the department of justice.

By Senator Berger.

To committee on Judiciary and Consumer Affairs.

### **Senate Bill 735**

Relating to judicial review of public service commission decisions.

By Senator Berger.

To committee on Judiciary and Consumer Affairs.

### **Senate Bill 736**

Relating to direct appeal to supreme court of public service commission rate decisions.

By Senator Berger.

To committee on Judiciary and Consumer Affairs.

### **Senate Bill 737**

Relating to refund of excess rates by public utilities, railroads and common motor carriers.

By Senator Berger.

To committee on Commerce.

### **Senate Bill 738**

Relating to prohibiting any utility rate increase except by administrative rule and granting rule-making power.

By Senator Berger.

To committee on Commerce.

### **Senate Bill 739**

Relating to authorizing the public service commission to establish a pilot project on electric rates and increasing an appropriation.

By Senator Berger.

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To committee on Commerce.

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## COMMITTEE REPORTS

The committee on Commerce reports and recommends:

### **Senate Bill 491**

Relating to making municipal restrictions on seaplanes subject to approval of the department of transportation.

Introduction of senate amendment 1 to senate substitute amendment 1; Ayes, 9; Noes, 0.

RONALD G. PARYS

Chairman

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## PETITIONS AND COMMUNICATIONS

### **Senate Petition 113**

A petition by 74 citizens of Wisconsin in support of Assembly Bill 69, regarding elimination of adoption fees through state agencies.

By Senator Thompson.

Read and referred to committee on Agriculture, Human Services, Labor and Taxation.

### **Senate Petition 114**

A petition by 27 Burnett County Senior Citizens supporting Omnibus Aging Services Legislation.

By Senator Dorman.

Read and referred to committee on Agriculture, Human Services, Labor and Taxation.

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## State of Wisconsin Claims Board

December 15, 1975.

Mr. Glenn Bultman  
Senate Chief Clerk  
State Capitol  
Madison, Wisconsin

Dear Mr. Bultman:

Enclosed is a copy of the report and recommendation of the State Claims Board covering claims heard on November 17, 1975.

The amounts recommended for payment under \$500 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the journal to inform the members of the Legislature.

Sincerely  
EDWARD MAIN  
Secretary

### BEFORE THE CLAIMS BOARD OF WISCONSIN

The Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin, on November 17, 1975, upon the following claims:

<i>Claimant</i>	<i>Amount of Claim</i>
1. Michael W. and Linda L. McDonough -----	\$ 215.00
2. Tony Jelich -----	202.40
3. Henry Kern -----	866.77
4. David G. Hammes -----	220.08
5. Arthur P. Schroeder -----	278.52
6. Arthur Gillette -----	600.86
7. William D. Laut -----	94.96
8. John S. Plenke -----	189.00
9. Pearson Electronics -----	2,925.00
10. Dr. Marie B. Rosenberg -----	29.15
11. Blumberg Furniture Rental of Racine, Inc. -----	150.00
12. August Tesch Estate -----	149.70
13. Olan L. Kinney -----	64.14

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14.	Dolores M. Jung -----	158.48
15.	Don Nichols, Inc. -----	73.18
16.	Mael Airways -----	7.91
17.	Hazelle Drake Estate -----	258.75
18.	Randy C. Schladweiler -----	93.34
19.	Nick Filardo -----	244.78
20.	Andrew J. Warga, Jr. -----	25.00
21.	William Johnson -----	168.92
22.	Nick Remus -----	115.34
23.	Robert Lee Brault -----	375.00
24.	Robert Reif -----	44.79
25.	Hazel L. Olson -----	67.60
26.	Mrs. Julia Driessen -----	193.44
27.	Dane County -----	22.50

### THE BOARD FINDS:

#### 1. *Michael and Linda McDonough*

Michael W. and Linda McDonough, 2749 N. 44th Street, Milwaukee, Wisconsin, claim \$215.00 for expenses incurred for attorney fees and an appraisal and credit report in relation to the attempted purchase of a home at 6519 W. Meincke, Wauwautosa, Wisconsin. Claimants allege that their attorney and lending institution were misled by statements of employees of the Department of Veterans Affairs assuring them of the availability of funds. The Department challenged that such statements were made, and no direct evidence of these statements was presented. Claimants' allegations are based upon hearsay. The Department vigorously opposed payment of the claim, somewhat inconsistent with a letter by the Secretary of the Department to claimants' attorney. The Department presented evidence demonstrating that claimants' loan application was processed as expeditiously as possible, and that it would have been unreasonable for the claimants to have expected to receive a loan commitment any sooner than they did. Claimants' application was received on March 28, 1975, and a written commitment was sent to the claimants on April 15, 1975. The Board finds there is not sufficient evidence of negligence on the part of officers, employees or agents of the State, and that the claim is not one for which the State is legally liable, nor one which the State should assume and pay on equitable principles.

#### 2.- 8.

Seven conservation wardens of the Department of Natural Resources filed claims for services rendered pursuant to sec.

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22.165, Wis. Stats. The Board finds that portion of the respective claims which were for crowd control services should be compensated for on the basis of the applicable straight-time which was being earned by each claimant, and concludes that the claims as adjusted below are those which in good conscience the State should assume and pay on equitable principles. The claims have been adjusted to result in straight-time compensation for crowd control services rendered by claimants beyond their 8 hour scheduled work days, less compensatory time earned. No compensation is awarded for non-crowd control services, nor for the first 8 hours of services performed on scheduled work days. These adjustments are the same as those made to similar previous claims awarded on July 16, 1974. The Board concludes payments should be made as follows:

2. Tony Jelick .....	\$ 87.82
3. Henry Kern .....	407.60
4. David G. Hammes .....	157.70
5. Arthur P. Schroeder .....	55.70
6. Arthur Gillette .....	433.40
7. William D. Laut .....	63.18
8. John S. Plenke .....	54.07
	Total \$1259.47

### 9. *Pearson Electronics*

Pearson Electronics, 4007 Transport Street, Palo Alto, California, claims \$2925 for a transformer ordered by the University of Wisconsin on September 19, 1973, pursuant to purchase order BY 993B10 1. The Board finds the transformer was not built according to specifications. In particular, the voltage rate-of-rise was specified at approximately 75KV per microsecond, but the transformer furnished to the University of Wisconsin had a voltage rate-of-rise of only half that amount. Consequently, the transformer was not as specified and of no use. The Board finds the claim is not one for which the State is legally liable, nor one which the State should assume and pay on equitable principles.

### 10. *Dr. Marie Rosenberg*

Dr. Marie B. Rosenberg, Eau Claire, Wisconsin, claims \$29.15 for dry cleaning bills resulting from an auto accident on U.S. 10 near Osseo on January 4, 1974. Claimant was in a car with her husband on an authorized field trip. Their car was demolished by an uninsured motorist. The medical bills were paid through insurance, and the cleaning bills are for the cost of removing blood from the claimant's clothing. The Board finds the claim is not one

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for which the State is legally liable, nor one which the State should assume and pay on equitable principles.

### 11. *Blumberg Furniture Rental*

Blumberg Furniture Rental of Racine, Inc., claims \$150 for overpayment of filing fees to the Secretary of State on August 6, 1975. It was erroneously stated that 200,000 shares were issued when only 30,000 shares were issued. The amended application was accepted on September 15, 1975. The Board finds the claim should be paid on equitable principles.

### 12. *John, Caroline, Elizabeth Tesch*

John Tesch, Caroline Tesch and Elizabeth Tesch, as sole heirs to the estate of August Tesch, claim \$149.70 for a stale check issued to August Tesch on April 4, 1969, for an income tax refund. The Board concludes the claim should be paid on equitable principles.

### 13. *Olan L. Kinney*

Alan L. Kinney, South Beloit, Illinois, claims \$15.18 for a stale check dated June 9, 1969, for an income tax refund, and \$8.88 for a second stale check dated May 21, 1967, for an income tax refund, and \$40.08 for a third stale check dated December 17, 1964, for an income tax refund. The Board concludes the claims should be paid on equitable principles.

### 14. *Dolores M. Jung*

Dolores M. Jung, Personal Representative, 963 Bennett Drive, Elyria, Ohio, claims \$158.48 for overpayment on inheritance taxes in the Estate of Isabelle Quarberg Silverness. The overpayment was because of unclaimed tax credit which was properly due. The State's share of said overpayment of taxes was \$148.97, and the share to Dodge County was \$9.51. The Board concludes the claim in the amount of \$148.47 should be paid on equitable principles.

### 15. *Don Nichols*

Don Nichols, Walworth, Wisconsin, claims \$73.18 for a stale check dated June 9, 1969, for an income tax refund. The Board concludes the claim should be paid on equitable principles.

### 16. *Robert A. Mael*

Robert A. Mael, Portage, Wisconsin, claims \$7.91 for a stale check dated May 26, 1968, for a tax refund. The Board concludes the claim should be paid on equitable principles.



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### 17. *Beatrice Michaels*

Beatrice Michaels, Personal Representative of the Estate of Hazelle Drake, Oconto Falls, Wisconsin, claims \$258.75 for overpayment of inheritance taxes. The overpayment was due to a failure to exclude from the taxable estate certain bequests which were exempt. The Board concludes the claim should be paid on equitable principles.

### 18. *Randy Schladweiler*

Randy Schladweiler, Random Lake, Wisconsin, claims \$93.34 for auto damages incurred on December 25, 1974, on Highway 144 near Random Lake. His car was damaged when crossing a water spillway with missing grates which were 30 feet away. This had happened before, and previous attempts to correct the problem apparently were not successful. The Board concludes the claim should be paid on equitable principles.

### 19. *Nick Filardo*

Nick Filardo, Hales Corners, Wisconsin, claims \$244.78 for damages to his broken sewer pipe as the result of construction work by the State. The Board concludes the claim should be paid on equitable principles.

### 20. *Andrew J. Warga*

Andrew J. Warga, Jr., Franklin, Wisconsin, claims \$25.00 for medical expenses resulting from falling on ice in front of Highway Patrol Headquarters in Waukesha. The ice had not been cleared away in a timely manner. The Board concludes the claim should be paid on equitable principles.

### 21. *William Johnson*

William Johnson, Grafton, Wisconsin, claims \$168.92 for a broken windshield caused by stones thrown up by traffic on July 8, 1975, on Highway 181 after a seal coat operation. A majority of the Board finds that the claimant should have driven more slowly and cautiously under the circumstances, and that there is an insufficient showing of negligence by the State to make it legally liable for the claim, and that payment of the claim cannot be justified on equitable principles. (Hubbard and Main dissent).

### 22. *Nick Remus*

Nick Remus, Deerfield, Wisconsin, claims \$115.34 for a broken windshield caused by stones thrown up by traffic on July 20, 1975, on Highway 73, after a resurfacing operation. A majority of the Board finds that the claimant should have driven more slowly and cautiously under such circumstances, and that there is an

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insufficient showing of negligence by the State to make it legally liable for payment of the claim, and that payment of the claim cannot be justified on equitable principles. (Hubbard and Main dissent).

### 23. *Robert Lee Brault*

Robert Lee Brault, Green Bay, Wisconsin, claims \$375 for damages to his driveway since the completion of the Don Tilleman Bridge. Claimant alleges the damages was caused by an excessive number of motorists who used his driveway as a turn-around because bridge traffic was not properly routed by the posted signs. Although his driveway was used to some extent in this manner, the Board finds that claimant's driveway and walk were many years old and in need of repair prior to the problem created by the bridge traffic. The Board finds there is not a sufficient showing of negligence on the part of officers, agents or employees of the State, and that the State is not legally liable for payment of the claim, and that the claim is not one which should be paid on equitable principles.

### 24. *Robert Reif*

Robert Rief, Whitelaw, Wisconsin, claims \$44.79 for damages to his car incurred on August 1, 1975, on Highway 141 north of Denmark when the highway broke up. Consistent with prior actions of this Board which have viewed "blow ups" as acts of God over which the State has no control and cannot prevent, this Board finds there is not a sufficient showing of negligence on the part of officers, agents or employees of the State, and that the State is not legally liable for payment of the claim, and that the claim is not one which should be paid on equitable principles.

### 25. *Hazel L. Olson*

Hazel L. Olson, Madison, Wisconsin, claims \$67.60 for car damages incurred on August 9, 1974, on Highway 18 between Montfort and Fennimore. Claimant alleges stone chips caused her quarter bottoms and fender bottoms to rust out and be refinished. The Board finds that there is insufficient evidence to attribute the full extend of such damage to this incident alone, and finds that the claim is not one for which the State is legally liable, nor one which the State should assume and pay on equitable principles.

### 26. *Mrs. Julia Driessen*

Mrs. Julia Driessen, Kaukauna, Wisconsin, claims \$193.44 for damages to her car incurred on June 21, 1975, on Highway 96 in the Town of Grand Chute when it ran over a manhole. The manhole cover, which should have been securely fastened down,

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popped up and struck her car. The Board concludes the claim should be paid on equitable principles.

### 27. *Dane County*

Dane County claims \$22.50 for reimbursement of a medical bill it paid on behalf of a Dane County Traffic Officer who responded to a mutual aid call of the State Patrol on November 18, 1974, at Highway 18-151 and Co. J. An intoxicated man offered resistance and in the process of handcuffing him, one of two dogs on the vehicle of the intoxicated man jumped out and bit the Dane County officer in the leg. The Board considers the expense to be that of Dane County since the response to the call of the State Patrol did not change the status of the officer from that of a Dane County employee to that of a State employee. The Board finds the claim is not one for which the State is legally liable nor one which the State should assume and pay on equitable principles.

### THE BOARD CONCLUDES:

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

Michael W. and Linda McDonough  
Pearson Electronics  
Dr. Marie B. Rosenberg  
William Johnson  
Nick Remus  
Robert Lee Brault  
Robert Reif  
Hazel L. Olson  
Dane County

2. Payment of the following amounts to the following claimants, respectively, is justified under sec. 16.007 (6), Stats.:

Tony Jelich .....	\$ 87.82
Henry Kern .....	407.60
David G. Hammes .....	157.70
Arthur P. Schroeder .....	55.70
Arthur Gillette .....	433.40
William D. Laut .....	63.18
John S. Plenke .....	54.07
Blumberg Furniture Rental of Racine .....	150.00
August Tesch Estate .....	149.70
Olan L. Kinney .....	64.14
Dolores M. Jung .....	148.47

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Don Nichols -----	73.18
Mael Airways -----	7.91
Hazelle Drake Estate -----	258.75
Randy Schladweiler -----	93.34
Nick Filardo -----	244.78
Andrew J. Warga, Jr. -----	25.00
Mrs. Julia Driessen -----	193.44

Dated at Madison, Wisconsin, this 8th day of December, 1975.

**GERALD D. KLECZKA**  
Senate Committee  
on Finance

**GEORGE MOLINARO**  
Assembly Committee  
on Finance

**DAVID RIEMER**  
Representative of Governor

**EDWARD D. MAIN**  
Representative of Secretary of  
Administration

**ALLAN P. HUBBARD**  
Representative of Attorney  
General

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## EXECUTIVE COMMUNICATIONS

State of Wisconsin  
Office of the Governor  
Madison, Wisconsin

December 30, 1975.

To the Honorable, the Senate:

On December 9, 1975, I submitted to the Senate the nomination of Mr. Donald Griffin, Jr., of Milwaukee, for membership on the Health Facilities Authority.

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I am writing at Mr. Griffin's request to ask that this nomination be withdrawn. It will not be possible for Mr. Griffin to serve at this time.

Sincerely,

PATRICK J. LUCEY

Governor

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### AMENDMENTS OFFERED

Senate substitute amendment 2 to **Senate Bill 436** by Senator Cullen.

Senate amendment 1 to **Senate Bill 470** by Senator Hollander.

Senate amendment 1 to **Senate Bill 686** by Senator Petri.