

STATE OF WISCONSIN
Senate Journal
Eighty-Sixth Regular Session

FRIDAY, October 28, 1983

9:30 A.M.

The senate met.

The senate was called to order by Fred A Risser, president of the senate.

The roll was called and the following senators answered to their names:

Present -- Senators Adelman, Chilsen, Cullen, Czarnezki, Davis, Ellis, Engeleiter, Feingold, George, Hanaway, Harsdorf, Kincaid, Johnston, Kincaid, Kleczka, Kreul, Lasee, Lee, Lorge, Lorman, McCallum, Maurer, Moen, Norquist, Offner, Opitz, Otte, Risser, Roshell, Strohl, Theno, Thompson and Van Sistine -- 33.

Absent -- None.

Absent with leave -- None.

The senate stood for the prayer which was offered by Benjamin Perry Schafner, Director of the B'nai B'rith Hillel Foundation of Madison.

The senate remained standing and Senator Kincaid led the senate in the pledge of allegiance to the flag of the United States of America.

PETITIONS AND COMMUNICATIONS

State of Wisconsin
Department of State

October 26, 1983

To the Honorable the Senate

I have the honor to transmit to you the following information pursuant to s. 13.685(8):

Sincerely,
DOUGLAS LAFOLLETTE
Secretary of State

Lobbyist's name, address, telephone number; principal's name, address, telephone number; the code numbers indicating Areas of Legislative Action; the code numbers indicating Areas of Administrative Action.

Hendee, Kirby, P.O. Box 2626, Madison, WI 53701 (608)257-0257; Matex International Corp., 5757 N. Lincoln Ave., Chicago, IL 60659 (312) 989-7043; 3, 13, 14, 18, 21, 23; 109, 140, 176.

Parizek, Dana, 3531 S. Home Ave., Berwyn, IL 60402 (312) 795-1104; Syntex Laboratories, Inc., 3401 Hillview Ave., Palo Alto, CA 94304 (415) 855-5050; 10, 11; 129.

Rush, Donald S., Ste. 802, 30 W. Mifflin St., Madison, WI 53703 (608) 255-8074; Association for Fire Safety, P.O. Box 64, East Troy, WI 53120; 26; 136.

Thieme, Janice H., 21 Harding St., Madison, WI 53714 (608) 249-8885; National Assn. of Margarine Manufacturers, Ste. 1024A, 1624 I St., N.W., Washington D.C. 20006 (202) 785-3232; 10; 109.

Zottarelli, Angelo, 720 United Bank, Austin, TX 78701 (512) 458-4015; Motion Picture Assn. of America, Inc., 522 Fifth Ave., N.Y.C. 10036 (212) 840-6161; 3, 20-22; 101, 140, 170, 174.

State of Wisconsin
Claims Board

October 26, 1983

Don Schneider
Senate Chief Clerk
State Capitol
Madison, Wisconsin

Dear Mr. Schneider:

Enclosed is the report of the State Claims Board covering claims heard on October 17, 1983.

The amounts recommended for payment under \$1000 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$1,000, and will submit such to the Joint Finance Committee for legislative introduction.

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 D. MAIN
Secretary

STATE OF WISCONSIN
CLAIMS BOARD

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin on October 17, 1983, upon the following claims:

Claimant	Amount
Village of Glenbeulah	\$22,891.24
Kenneth Nehls	3,000.00

Otto Pettersen	50.00
Leonard Proite	25,000.00

In addition, the following claims were considered and decided without hearings:

Jean Schneider	\$ 79.95
Sacred Heart Hospital	810.68
Mae Thompson	96.60
Bernice Georg	3,311.20
Richard Tyson	16.00
Michael Lach	13.50
Thomas Dushek	30.00

THE BOARD FINDS:

1. Village of Glenbeulah claims \$22,891.24 for federal land and water conservation grant funds disallowed by the Department of Natural Resources in 1981 because the federal and state competitive bidding requirements were not followed by the Village in letting bids for construction of a park improvement project. Parks of the project were not properly advertised prior to letting contracts as required by s. 61.44, Stats., and the grant agreement entered into by the Department of Natural Resources and the Village. In 1982, the Village entered into a contract with the Department of Natural Resources to repay the previously awarded grant funds for the unbid items. The Board concludes this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

2. Kenneth Nehls of Juneau claims \$3,000.00 for reimbursement of part of the cost incurred in replacing his failing septic system in 1981. Section 144.245(5), Stats., authorizes payment of grant funds for rehabilitation or replacement of a sewage system if a grant application is submitted by the government unit responsible for the regulation of the private sewage system, within 12 months after an order to upgrade a failing septic system has been issued. Notice of violation was issued to claimant by Dodge County in July, 1981; however, the application for funds was not submitted by the County by July, 1982. Claimant was apparently misinformed by a Dodge County employee; therefore, the Board suggests that the claimant pursue his claim with the County. The Board concludes there has been no showing of negligence on the part of the state, its officers, agents, or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles. (Member Schneider dissents).

3. Otto Pettersen of Milwaukee claims \$50 as the insurance deductible for his watch and scarf, allegedly stolen from his person while performing his duties as an employe of the Department of Industry, Labor and Human Relations, Milwaukee Job Service Office at the Wisconsin State Fair Park on January 17, 1983. The Board concludes the claim should be paid, based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be

made from the State Claims Board appropriation s. 20.505(4)(d), Stats.

4. Leonard Proite claims \$25,000.00 as compensation for wrongful imprisonment under s. 775.05, Stats. Claimant appeared at the hearing, represented by his attorney, Gary R. Schmaus; the Department of Justice appeared on behalf of the State by Assistant Attorney General Alan Lee. Claimant requests compensation for his imprisonment for the alleged commission of an armed robbery. On April 17, 1989, claimant was arrested and later convicted of the crime. Subsequently, on the basis of newly discovered evidence, the charges against claimant were dismissed after Waukesha County Circuit Court Judge Neal P. Nettesheim ordered a new trial in April, 1981. Section 775.05, Stats., provides for a rate of compensation not greater than \$5,000 per year for the imprisonment not to exceed \$25,000 if the Board finds the evidence clear and convincing that the petitioner was innocent of the crime for which he suffered imprisonment and that he did not by his act or failure to act, contribute to bring about the conviction and imprisonment for which he seeks compensation. In view of the evidence presented to the Board and the time served by claimant, from April 17, 1980 to June 15, 1981, the Board concludes the state, in good conscience, should compensate claimant in the sum of \$5,800, from the State Claims Board appropriation s. 20.435(3)(hm), Stats.

5. Jean Schneider of Irma claims \$79.95 for replacement of his skis allegedly damaged during the course of his duties as an employe of the Lincoln Hills School on January 29, 1983. The Board concludes the claim should be paid based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats., payment should be made from the Department of Health & Social Services appropriation s. 20.435(3)(hm), Stats. (Member Wilker not participating.)

6. Sacred Heart Hospital of Eau Claire claims \$810.68 for damages caused by a resident from Northern Wisconsin Center who was admitted as a patient to the Hospital from December 26, 1982 through January 18, 1983. The Hospital was advised the the Institute of the patient's behavior and condition at the time of his admission to the Hospital. The Board concludes there has been no showing of negligence on the part of the state, its officers, agents, or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

7. Mae Thompson of Union Grove claims \$96.60 for auto damages on June 20, 1983, on the grounds of Southern Wisconsin Center, caused by a resident of the Institution. Claimant has full insurance coverage for the loss, and the Board concludes the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

8. Bernice Georg of Wauwatosa claims \$311.20 for medical expenses and \$3,000.00 for pain and suffering as the result of injuries she sustained on November 28, 1982, when a resident of the Southern Wisconsin Center threw an office chair down the hallway at the Center,

hitting the claimant. As a matter of policy, this Board does not award claims for general damages relating to pain and suffering; therefore, that part of the claim is denied. The Board concludes that the unreimbursed medical bills in the amount of \$218.92 should be paid based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Health & Social Services appropriation s. 20.435(2)(gk), Stats.

9. Richard Tyson of Menomonie claims \$16.00 for replacement cost of his short which was damaged by a leaking ballpoint pen on April 14, 1983, which was issued to him by his employer, the University of Wisconsin-Stout, and manufactured by the Workshop for the Blind. The Board concludes the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

10. Michael Lach of Wausau claims \$13.50 for damages to his eyeglasses on May 19, 1983, when he was subpoenaed to appear in a case in Taylor County Circuit Court as an employe of the Department of Transportation. Claimant was asked to remove his glasses to allow a witness to identify him when a lens from his eyeglasses fell to the floor and broke. The Board concludes the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

11. Thomas Dushek of Poynette claims \$30.00 for damages to his eyeglass frames which occurred on March 15, 1983, while he was engaged in pheasant management activities as part of his duties as an LTE employe of the Department of Natural Resources State Game Farm. While driving birds to a catch pen for vaccination, two pheasants struck claimant in the head, knocking off his eyeglasses. The Board concludes the claim should be paid based on equitable principles. The Board concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Natural Resources appropriation s. 20.370(1), Stats.

THE BOARD CONCLUDES:

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

- Village of Glenbeulah
- Kenneth Nehls
- Sacred Heart Hospital
- Mae Thompson
- Richard Tyson
- Michael Lach

2. Payment of the following amounts to the following claims is justified under s. 16.007, Stats.:

Otto Pettersen	\$ 50.00
Leonard Proite	5,800.00
Jean Schneider	79.95
Bernice Georg	218.92
Thomas Dushek	30.00

Dated at Madison, Wisconsin this 26th day of October, 1983.

GERALD D. KLECZKA
Senate Finance Committee

MARLIN D. SCHNEIDER
Assembly Finance Committee

DANAE DAVIS GORDON
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of Administration

WILLIAM H. WILKER
Representative of Attorney General

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison, Wisconsin

October 27, 1983

To the Honorable, the Senate:

On July 18, 1983 I sent a communication to you nominating MS. NAOMI NIRSCHL of Hiles as a member of the Nursing Home Administrators Examining Board. Ms. Nirschl has since resigned and pursuant to the statutes governing, I am withdrawing this nomination.

Respectfully,
ANTHONY S. EARL
Governor

SENATE CLEARINGHOUSE ORDERS

Clearinghouse Rule 83-163

AN ORDER to amend Trans 303.06 (1) (g), relating to equipment standards for special vehicles.

Submitted by Department of Transportation.

Report received from agency, October 27, 1983.

Referred to committee on Transportation, October 28, 1983.

CALENDAR OF OCTOBER 28

Senate Bill 410

Relating to bifurcating the arbitration process for solid waste disposal facilities and hazardous waste treatment, storage and disposal facilities and including the need for the facility as a factor in the siting process.
Read.

The question was: Concurrence of assembly amendment 1?
Concurred in.

Assembly Bill 738

Relating to October 1983 local transportation aids payments.

Read a second time.

Ordered to a third reading.

By request of Senator Cullen, with unanimous consent, the bill was considered for final action at this time.

Assembly Bill 738

Read a third time.

The ayes and noes were demanded and the vote was: ayes, 33; noes, 0; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Chilsen, Cullen, Czarnezki, Davis, Ellis, Engeleiter, Feingold, George, Hanaway, Harsdorf, Helbach, Johnston, Kincaid, Kleczka, Kreul, Lasee, Lee, Lorge, Lorman, McCallum, Maurer, Moen, Norquist, Offner, Opitz, Otte, Risser, Roshell, Strohl, Theno, Thompson and Van Sistine -- 33.

Noes -- None.

Absent or not voting -- None.

So the bill was concurred in.

By request of Senator Cullen, with unanimous consent, the senate recessed until 9:58 A.M.

9:50 A.M.

RECESS

9:58 A.M.

The senate reconvened.

Senator Strohl in the chair.

Senate Bill 170

Relating to regulation of fireworks and changing penalties.

Read a second time.

The question was: Adoption of senate substitute amendment 1?

Adopted.

Senator Harsdorf moved that **Senate Bill 170** be referred to joint committee on Finance.

The question was: Shall the bill be referred to joint committee on Finance?

The ayes and noes were demanded and the vote was: ayes, 5; noes, 28; absent or not voting, 0; as follows:

Ayes -- Senators Ellis, Harsdorf, McCallum, Opitz and Theno -- 5.

Noes -- Senators Adelman, Chilsen, Cullen, Czarnezki, Davis, Engeleiter, Feingold, George, Hanaway, Helbach, Johnston, Kincaid, Kleczka, Kreul, Lasee, Lee, Lorge, Lorman, Maurer, Moen, Norquist, Offner, Otte, Risser, Roshell, Strohl, Thompson and Van Sistine -- 28.

Absent or not voting -- None.

So the motion did not prevail.

Ordered to a third reading.

By request of Senator Cullen, with unanimous consent, the bill was considered for final action at this time.

Senate Bill 170

Read a third time and passed.

By request of Senator Cullen, with unanimous consent, the Senate returned to the fourth order of business.

COMMITTEE REPORTS

Committee of Conference
on
Assembly Bill 260

The members of the Committee of Conference on **Assembly Bill 260** report and recommend, That, by the adoption of this report, the senate and the assembly adopt and concur in Conference Amendment 1 to Engrossed **Assembly Bill 260**, as affected by senate amendments 4, 7, 8, 13 and 14, which is attached to and made a part of this report.

JOHN MEDINGER

Co-Chair

RICHARD

SHOEMAKER

ROBERT TRAVIS

PAUL OFFNER

Co-Chair

GERALD KLECZKA

DONALD HANAWAY

By request of Senator Cullen, with unanimous consent, **Assembly Bill 260** was considered at this time.

Assembly Bill 260

Relating to official identification cards, changing the legal drinking age, establishing a curfew and creating and changing penalties.

The question was: Shall the Committee of Conference report be adopted?

The ayes and noes were required and the vote was: ayes, 27; noes, 6; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Chilsen, Cullen, Davis, Ellis, Engeleiter, Hanaway, Harsdorf, Helbach, Johnston, Kleczka, Kreul, Lasee, Lorge, Lorman, McCallum, Maurer, Moen, Norquist, Offner, Opitz, Otte, Roshell, Strohl, Theno, Thompson and Van Sistine -- 27.

Noes -- Senators Czarnezki, Feingold, George, Kincaid, Lee and Risser -- 6.

Absent or not voting -- None.

So the Committee of Conference report was adopted.

Committee of Conference
on
Assembly Bill 26

The members of the Committee of Conference on **Assembly Bill 26** report and recommend, That, by the adoption of this report:

1. Prior senate action. The senate recesses from its position on senate substitute amendment 1.

2. Prior assembly action. The assembly recesses from its position on **Assembly Bill 26** as introduced.

3. Action on conference report. The senate and assembly adopt and concur in conference substitute amendment 1, which is attached to and made a part of this report.

WILLIAM J. ROGERS	GARY R. GEORGE
Co-chair	Co-chair
JOSEPH ANDREA	CARL OTTE
RICHARD MATTY	ROD JOHNSTON

By request of Senator Cullen, with unanimous consent, **Assembly Bill 26** was considered at this time.

Assembly Bill 26

Relating to liability for nonmoving traffic violations with rented or leased vehicles.

The question was: Shall the Committee of Conference report be adopted?

The ayes and noes were required and the vote was: ayes, 33; noes, 0; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Chilsen, Cullen, Czarnecki, Davis, Ellis, Engeleiter, Feingold, George, Hanaway, Harsdorf, Helbach, Johnston, Kincaid, Kleczka, Kreul, Lasee, Lee, Lorge, Lorman, McCallum, Maurer, Moen, Norquist, Offner, Opitz, Otte, Risser, Roshell, Strohl, Theno, Thompson and Van Sistine -- 33.

Noes -- None.

Absent or not voting -- None.

So the Committee of Conference report was adopted.

CALENDAR OF OCTOBER 28

Senate Bill 174

Relating to employment relations in higher education and making appropriations.

Read a second time.

The question was: Shall the bill be indefinitely postponed?

By request of Senator Kleczka, with unanimous consent, **Senate Bill 174** was referred to joint committee on Finance.

By request of Senator Cullen, with unanimous consent, all action was ordered immediately messaged.

Senate Resolution 14

Favoring the approval of the application of the Grand Trunk Western Railroad Co. to acquire the Milwaukee Road.

Read.

The question was: Adoption of senate amendment 1? Adopted.

The question was: Shall **Senate Resolution 14** be adopted?

Senator Lorman moved rejection of **Senate Resolution 14**.

The question was: Shall the resolution be rejected?

Senator Kleczka moved that **Senate Resolution 14** be referred to committee on Transportation.

The question was: Shall the resolution be referred to committee Transportation?

The ayes and noes were demanded and the vote was: ayes, 12; noes, 20; absent or not voting, 1; as follows:

Ayes -- Senators Cullen, Davis, George, Helbach, Johnston, Kleczka, Lee, Lorge, Lorman, McCallum, Strohl and Van Sistine -- 12.

Noes -- Senators Adelman, Chilsen, Czarnecki, Ellis, Engeleiter, Feingold, Hanaway, Harsdorf, Kincaid, Kreul, Lasee, Maurer, Moen, Norquist, Offner, Opitz, Otte, Risser, Roshell and Theno -- 20.

Absent or not voting -- Senator Thompson -- 1.

So the motion did not prevail.

Senator Cullen moved that **Senate Resolution 14** be referred to committee on Senate Organization.

The question was: Shall the resolution be referred to committee on Senate Organization?

The ayes and noes were demanded and the vote was: ayes, 15; noes, 17; absent or not voting, 1; as follows:

Ayes -- Senators Adelman, Cullen, Feingold, George, Helbach, Johnston, Kincaid, Kleczka, Lee, Lorge, Lorman, McCallum, Offner, Strohl and Van Sistine -- 15.

Noes -- Senators Chilsen, Czarnecki, Davis, Ellis, Engeleiter, Hanaway, Harsdorf, Kreul, Lasee, Maurer, Moen, Norquist, Opitz, Otte, Risser, Roshell and Theno -- 17.

Absent or not voting -- Senator Thompson -- 1.

So the motion did not prevail.

The question was: Rejection of **Senate Resolution 14**?

The ayes and noes were demanded and the vote was: ayes, 13; noes, 19; absent or not voting, 1; as follows:

Ayes -- Senators Adelman, Cullen, George, Helbach, Johnston, Kleczka, Lee, Lorge, Lorman, McCallum, Norquist, Strohl and Van Sistine -- 13.

Noes -- Senators Chilsen, Czarnecki, Davis, Ellis, Engeleiter, Feingold, Hanaway, Harsdorf, Kincaid, Kreul, Lasee, Maurer, Moen, Offner, Opitz, Otte, Risser, Roshell and Theno -- 19.

Absent or not voting -- Senator Thompson -- 1.

So the motion did not prevail.

Senator Kleczka moved that **Senate Resolution 14** be referred to committee on Energy and Environmental Resources.

The question was: Shall the resolution be referred to committee on Energy and Environmental Resources?

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The motion did not prevail.

The question was: Shall **Senate Resolution 14** be adopted?

The ayes and noes were demanded and the vote was: ayes, 17; noes, 15; absent or not voting, 1; as follows:

Ayes -- Senators Chilsen, Czarnecki, Davis, Ellis, Engleiter, Feingold, Harsdorf, Kreul, Lasee, Maurer, Moen, Offner, Opitz, Otte, Risser, Roshell and Theno -- 17.

Noes -- Senators Adelman, Cullen, George, Hanaway, Helbach, Johnston, Kincaid, Kleczka, Lee, Lorge, Lorman, McCallum, Norquist, Strohl and Van Sistine -- 15.

Absent or not voting -- Senator Thompson -- 1.

So the resolution was adopted.

By request of Senator Cullen, with unanimous consent, the Senate returned to the eighth order of business.

MESSAGE FROM THE ASSEMBLY

By Joanne M. Duren, chief clerk.

Mr. President:

I am directed to inform you that the assembly has concurred in:

Assembly Bill 260, Committee of Conference report
Senate Joint Resolution 42

Senate Bill 91, senate amendment 1 to assembly amendment 2 concurred in and assembly recedes from its position on assembly amendment 4

Assembly Bill 128, senate substitute amendment 1

Assembly Bill 26, Committee of Conference report
Senate Bill 460

Passed and asks concurrence in:

Assembly Bill 396

MESSAGE FROM THE ASSEMBLY
CONSIDERED

Assembly Bill 396

Relating to the size of a county public work contract which can be let without advertising for bids.

By Representatives Meaux, Plewa and Crawford, co-sponsored by Senator Norquist, by request of Milwaukee County.

Read first time and referred to committee on Urban Affairs and Government Operations.

AMENDMENTS OFFERED

Senate amendment 1 to **Senate Bill 340** by Senator Van Sistine.

Upon motion of Senator Cullen the senate adjourned pursuant to **Senate Joint Resolution 2**.

9:25 P.M.

CHIEF CLERK'S CORRECTION

Suggested by Legislative Reference Bureau

Senate Bill 395

1. Page 2, line 6: on lines 6 and 7, delete "of the statutes".

2. Page 2, line 7: substitute "Acts" for "Act".