

STATE OF WISCONSIN
Senate Journal
Eighty-Seventh Regular Session

WEDNESDAY, June 19, 1985

10:00 A.M.

The senate met.

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

The senate stood for the prayer which was offered by Pastor Paul H. Garchow of St. Paul's Evangelical Lutheran Church, Janesville.

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

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

Senators Adelman, Andrea, Chilsen, Chvala, Cullen, Czarnezki, Davis, Ellis, Engeleiter, Feingold, George, Hanaway, Harsdorf, Helbach, Kincaid, Kreul, Lasee, Lee, Leean, Lorman, McCallum, Moen, Norquist, Otte, Plewa, Risser, Roshell, Rude, Stott, Strohl, Theno, Ulichny and Van Sistine -- 33.

Absent -- None.

Absent with leave -- None.

PETITIONS AND COMMUNICATIONS

State of Wisconsin
 Claims Board

June 12, 1985

To the Honorable the Senate

Enclosed is the report of the State Claims Board covering claims heard on June 3, 1985.

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 June 3, 1985 upon the following claims:

Claimant	Amount
Karen Apel	\$ 768.25
Frank Sever	3,000,000.00
Grant Verhulst	19,296.00

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

Ruth Gerhardt	\$ 99.95
Ronald Nelson	10.81
John Harings	27.99
Audrey Tiegs	50.00
Donald Scheele	31.50
MSI Insurance	927.66

THE BOARD FINDS:

1. Karen Apel of Milwaukee claims \$768.25 for medical expenses incurred in August and September 1984, as a result of a misunderstanding regarding her insurance coverage during the summer months between semesters as a teaching assistant at the University of Wisconsin-Milwaukee during the 1983-84 and 1984-85 academic years. The Board concludes the claim should be paid in the reduced amount of \$573.53, which reflects the amount of medicals less the \$48.68 premium claimant would have paid each month during the summer, based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats., payment should be made from the University of Wisconsin appropriation s. 20.285(1)(a), Stats.

2. Frank Sever of Tower, Minnesota, claims \$3,000,000.00 for damages relating to the alleged wrongful detention of his uncle, Tony Sever, in state institutions from 1932 to 1966. Tony Sever was committed to the Mendota State Hospital by order of the Douglas county Court dated February 13, 1932, as the result of examinations by two physicians appointed by the court. In February, 1935, he was transferred to the St. Croix County Hospital where he remained until his death in June 1966. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees 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.

3. Grant Verhulst of Osseo claims \$19,296.00 for expenses and damages relating to the failure of a business he became involved in through the assistance of the Division of Vocational Rehabilitation (DVR), Business Enterprise Program in 1982. Claimant is legally blind. Pursuant to s. 47.03(4)(a), Stats., the Business Enterprise Program is established to provide consultative services to or operate businesses for the benefit of blind persons, with the ultimate objective of enabling blind persons to operate their own businesses. Claimant leased a mobile concession facility owned by DVR. Claimant alleges the state was negligent in conducting its portion of the program resulting in the termination of his "corn roasting" business. The Board concludes there has been an insufficient 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.

4. Ruth Gerhardt of Sun Prairie claims \$99.95 for loss of a woodworking tool on January 31, 1984, allegedly stolen from a classroom at the Sherman School where she is employed as a teacher. The Department of Health and Social Services advises that additional security measures have been added to the classroom since this incident occurred. The Board concludes the claim should be paid in the reduced amount of \$75.00, 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 and Social Services appropriation s. 20.430(2)(gk), Stats.

5. Ronald Nelson of Marinette claims \$10.81 for reimbursement of a prescription he purchased at a pharmacy in Menominee, Michigan on March 25, 1983. Effective October 1, 1982, claimant became a recipient of the Wisconsin Medical Assistance Program. Pursuant to ss. HSS 105.48, 107.02(3)(c), 107.03(8) and 107.04, Wis. Adm. Code, the Medical Assistance Program may pay benefits provided by out-of-state providers if the provider or recipient has applied for and been granted "prior approval" of the requested benefit before the benefit was actually provided to the recipient. Claimant was advised by the pharmacy in Michigan that they do not accept Wisconsin Medical Assistance. 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.

6. John Harings of Chippewa Falls claims \$27.99 for replacement cost of his automobile tail light which was damaged by a resident of the Northern Wisconsin Center on December 17, 1984, while the automobile was parked in the lot at the Center. An employe of the Center observed the resident causing the damage to the

claimant's car. 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 and Social Services appropriation s. 20.435(2)(gk), Stats.

7. Audrey Tiegs of Summit Lake claims \$50.00 for loss of a copper boiler which was disposed of in the Fall of 1984, when she requested the Department of Natural Resources to pick up some arsenic and pesticide wastes which she possessed. The Department of Natural Resources paid for the pick-up and disposal of the wastes through a private contractor. Claimant used the boiler as a container for the wastes and the private contractor picked up and disposed of the boiler along with the wastes. 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 Natural Resources appropriation s. 20.370(2)(du), Stats.

8. Donald Scheele of Milwaukee claims \$31.50 for replacement cost of an automobile window allegedly broken by unknown persons during an attempt to burglarize his automobile on December 11, 1984, while it was parked in the guarded and patrolled parking lot at the Department of Natural Resources Southeast District Office in Milwaukee. 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 Natural Resources appropriation s. 20.370(2)(ma), Stats. The Board suggests that future claims of this nature be avoided by the installation of signs disclaiming responsibility for similar damage that may occur in the future.

9. MSI Insurance of St. Paul, Minnesota, claims \$927.66 for subrogation damages and the deductible amount paid by its insureds, Terry and Linda White, for damages to their boat allegedly caused by a Department of Natural Resources Conservation Officer on July 14, 1984, at Kinnickinnic State Park. The damage was allegedly caused when the conservation officer boarded and searched the boat. The Board finds there has been no showing of negligence on the part of the state, its officers, agents or employes and consistent with the long-standing policy of this Board concerning subrogation claims 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.

THE BOARD CONCLUDES:

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

Frank Sever
Grant Verhulst
Ronald Nelson
MSI Insurance

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

Karen Apel	\$573.53
Ruth Gerhardt	75.00
John Harings	27.99
Audrey Tiegs	50.00
Donald Scheele	31.50

Dated at Madison, Wisconsin this 11th day of June, 1985.

GARY R. GEORGE
Senate Finance Committee

MARLIN D. SCHNEIDER
Assembly Finance Committee

JUAN B. COLAS (absent)
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of Administration

WILLIAM H. WILKER
Representative of Attorney General

SENATE CLEARINGHOUSE ORDERS

Clearinghouse Rule 85-56

AN ORDER to renumber chapter A-V 1 to 8, 10 and 11, relating to various subjects affecting vocational, technical and adult education.

Submitted by Board of Vocational, Technical and Adult Education.

Report received from agency, June 18, 1985.

Referred to committee on Education and Government Operations, June 19, 1985.

Clearinghouse Rule 85-96

AN ORDER to create shoreland-wetland zoning regulations for Door county.

Submitted by Department of Natural Resources.

Report received from agency, June 18, 1985.

Referred to committee on Energy and Environmental Resources, June 19, 1985.

The committee on Labor, Business, Veterans Affairs and Insurance reports and recommends:

Clearinghouse Rule 85-28

AN ORDER to amend Ins 17.28 (intro.) and (6), relating to health care provider fees for the patients compensation fund.

Submitted by Office of the Commissioner of Insurance.

No action taken.

JEROME VAN SISTINE
Chair

MESSAGE FROM THE ASSEMBLY

By Joanne M. Duren, chief clerk.

Mr. President:

I am directed to inform you that the assembly has adopted and asks concurrence in:

Assembly Joint Resolution 40

Assembly Joint Resolution 41

Passed and asks concurrence in:

Assembly Bill 15

Assembly Bill 101

Assembly Bill 138

Assembly Bill 232

Concurred in:

Senate Joint Resolution 49

Senate Bill 85

Senate Bill 134

Assembly Bill 291, senate substitute amendment 1

MESSAGE FROM THE ASSEMBLY
CONSIDERED

Assembly Joint Resolution 40

Commending Andy North for winning the U.S. Open Golf Championship.

By Representatives D. Travis, Wineke, Magnuson, Loftus, Clarenbach, Hubler, Krusick, Black, R. Young, Grobschmidt, R. Thompson and all members of the assembly, cosponsored by Senators Feingold and Risser.

Read and referred to committee on Senate Organization.

Assembly Joint Resolution 41

Congratulating Henry Maier for his 25 years of service as Mayor of the City of Milwaukee.

By Representatives Krusick, M. Coggs, Barrett, Becker, Byers, S. Coggs, Carpenter, Notestein, Grobschmidt, Hauke, T. Thompson, Margaret Lewis, Panzer, Berndt, Johnsrud, Matty, Porter, Musser, Gronemus, Ladwig, Rosenzweig, Plizka, Van Gorden, Prosser, McEssy, Clements, Schultz, Zeuske, Walling, Cowles, Buettner, Tregoning, Bradley, Welch, Kasten, Ourada, Schneiders, Goetsch, R. Thompson and Vergeront, cosponsored by Senators George, Plewa and Norquist.

Read and referred to committee on Senate Organization.

Assembly Bill 15

Relating to agricultural and vegetable seeds and imposing a penalty.

By Representatives Swoboda, Van Gorden and Clements, by request of Department of Agriculture, Trade and Consumer Protection.

Read first time and referred to committee on Agriculture, Health and Human Services.

Assembly Bill 101

Relating to dogs specially trained to provide support for mobility-impaired persons.

By Representatives Medinger, Magnuson, Neubauer, Buettner, Goetsch, Matty, Becker, Seery, M. Coggs, Tregoning, Manske, Berndt, Merkt, Plizka, Weeden and Barca, cosponsored by Senators Moen, Risser, Rude, Lee, Harsdorf, Andrea and Roshell.

Read first time and referred to Agriculture, Health and Human Services.

Assembly Bill 138

Relating to decertification of law enforcement and jail officers.

By Representatives Tesmer and R. Thompson, cosponsored by Senator Adelman.

Read first time and referred to committee on Judiciary and Consumer Affairs.

Assembly Bill 232

Relating to temporary borrowing by school boards.

By Representatives Potter, York and Volk, cosponsored by Senators Rude, Chvala and Moen, by request of Wisconsin Association of School Boards.

Read first time and referred to committee on Education and Government Operations.

CALENDAR OF JUNE 19

Assembly Bill 85

Relating to state finances and appropriations, constituting the executive budget bill of the 1985 legislature, and making appropriations.

Read a second time.

Senate amendment 1 offered by Senators Strohl, Andrea, Adelman, Otte, Plewa, George, Cullen, Risser, Roshell, Czarnetzki and Kincaid.

The question was: Adoption of senate amendment 1?

By request of Senator Chilsen, with unanimous consent, he was made a co-author of senate amendment 1.

The question was: Adoption of senate amendment 1?

By request of Senator Kreul, with unanimous consent, the senate recessed until 11:55 A.M.

10:15 A.M.

RECESS

11:55 A.M.

The senate reconvened.

AMENDMENTS OFFERED

Senate amendment 2 to **Assembly Bill 85** by Senators Norquist, Andrea, Lee and Stitt.

Senate amendments 3 and 4 to **Assembly Bill 85** by Senator Ellis.

Senate amendment 5 to **Assembly Bill 85** by Senator Andrea.

Senate amendment 6 to **Assembly Bill 85** by Senator Ellis.

Senate amendments 7 and 8 to **Assembly Bill 85** by Senator McCallum.

Senate amendment 9 to **Assembly Bill 85** by Senator Andrea.

Senate amendments 10 and 11 to **Assembly Bill 85** by Senator McCallum.

Senate amendment 12 to **Assembly Bill 85** by Senators McCallum and Rude.

Senate amendments 13 and 14 to **Assembly Bill 85** by Senator McCallum.

Senate amendment 15 to **Assembly Bill 85** by Senators Andrea, Roshell and Ulichny.

Senate amendments 16 and 17 to **Assembly Bill 85** by Senator Norquist.

Senate amendment 18 to **Assembly Bill 85** by Senator Ellis.

Senate amendment 19 to **Assembly Bill 85** by Senator Hanaway.

Senate amendment 20 to **Assembly Bill 85** by Senator Lasee.

Senate amendment 21 to **Assembly Bill 85** by Senators Lasee, Davis, Stitt, Harsdorf, Chilsen, Theno, Ellis, Engeleiter, Kreul, Lorman, Lekan, McCallum and Rude.

Senate amendment 22 to **Assembly Bill 85** by Senators Lasee, Davis, Lekan, Lorman, Kreul, Engeleiter, Ellis and Chilsen.

Senate amendment 23 to **Assembly Bill 85** by Senator Hanaway.

By request of Senator Cullen, with unanimous consent, the senate recessed until 2:00 P.M.

11:56 A.M.

RECESS

2:00 P.M.

The senate reconvened.

By request of Senator Cullen, with unanimous consent, the senate recessed until 3:15 P.M.

2:06 P.M.

RECESS

3:15 P.M.

The senate reconvened.

Upon motion of Senator Cullen the senate adjourned
until 10:00 A.M. Thursday, June 20.

3:17 P.M.

CHIEF CLERK'S CORRECTION

Suggested by Legislative Reference Bureau

Assembly Bill 85

1. Page 576, line 11: after "and" insert "thereafter."