



1997 SENATE BILL 442

February 5, 1998 - Introduced by Senator BURKE, cosponsored by Representative BOCK. Referred to Joint committee on Finance.

1 **AN ACT relating to:** the expenditure of \$256,744.55 from moneys appropriated
2 to the department of transportation for payment of a claim against the state
3 made by CleanSoils Wisconsin, Inc.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$256,744.55 from moneys appropriated to the department of transportation (DOT) for state highway rehabilitation in payment of a claim made by CleanSoils Wisconsin, Inc., against DOT. The claimant was a subcontractor of the general contractor (James Peterson Sons, Inc.) for a highway construction project on STH 97 in Marathon County in 1995. The claimant was hired to clean up soil at a contaminated site. The claimant's work was not completed by its contractual completion date. The claimant received a change order from the project's consulting engineers, Central Wisconsin Engineers (another subcontractor for the general contractor) that authorized a later completion date. DOT asserts that Central Wisconsin Engineers had no authority to waive the completion date. DOT also asserts that the claimant's work was not performed in accordance with the specifications or reasonable professional standards. In late 1995, DOT hired Rust Environment and Infrastructure, Inc. (consulting engineers), and McNulty Trucking Company to complete the work begun by the claimant. The claimant was paid \$233,065.45 by the general contractor for work performed. The claimant claimed \$331,581.25 for processing 9,625 tons of soil at \$34.45 per ton, plus \$38,633.75 for excavation, stockpiling, backfill and compacting (total = \$370,215). After subtracting the amount that the claimant was paid, this results in a net claim of

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\$137,149.55. In addition, the claimant claims \$175,695 for lost profits. This claim is based on 5,100 tons of soil processed by Rust Environment and Infrastructure for which the claimant asserts it would have earned a profit of \$23.45 per ton. The claimant's claim totals \$256,744.55. On October 30, 1997, the claims board recommended denial of a claim of \$175,695 by this claimant (see *Senate Journal*, p. 334).

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1. Claim against the state.** There is directed to be expended from
2 the appropriation under section 20.395 (3) (cq) of the statutes \$256,744.55 in
3 payment of a claim against the state made by CleanSoils Wisconsin, Inc., Vadnais
4 Heights, Minnesota, to compensate it for soil decontamination work performed in
5 relation to an improvement project on STH 97 in Marathon County in 1995, plus lost
6 profits on work performed by a substitute contractor on the same project who was
7 hired by the department of transportation. Acceptance of this payment operates as
8 a full and complete release to this state, its officers, employes and agents from any
9 further liability to the claimant in connection with this project.

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(END)