

2001 DRAFTING REQUEST

Bill

Received: 09/11/2000

Received By: **kuesejt**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Scott Southworth**

This file may be shown to any legislator: **NO**

Drafter: **kuesejt**

May Contact:

Alt. Drafters:

Subject: **State Finance - claims agnst st**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Jodi Bollendorf claim

Instructions:

Per board recommendation, 7/13/2000.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 11/07/2000	gilfokm 11/10/2000					State
/P1			pgreensl 11/13/2000		lrb docadmin 11/13/2000		State
/1	kuesejt 12/28/2000	gilfokm 12/28/2000	rschluet 12/29/2000		lrb docadmin 12/29/2000		State
/2	kuesejt 12/29/2000	gilfokm 12/29/2000	martykr 01/03/2001		lrb docadmin 01/03/2001	lrb docadmin 01/03/2001	

FE Sent For:

<END>

↳ At Intro.

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Bill

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Received By: **kuesejt**

Wanted: As time permits

Identical to LRB:

For: ~~Brian Burke~~ (608) 266-8535

By/Representing: **Patricia Reardon- Claims Bd**

This file may be shown to any legislator: **NO**

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Alt. Drafters:

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Extra Copies:

*1/4/01
change to
Albers
per JTK
per Burke*

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By/Representing: Patricia Reardon- Claims Bd

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FE Sent For: *12/29* *12-12/29* *kmj* *kmj* *KF* *Rdn/2*

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/P1 /1	<i>kuesejt</i> 12/28	<i>1-12/28 King</i> /28	pgreensl 11/13/2000		lrb_docadmin 11/13/2000		

FE Sent For:

12/29/00 *Q/Self*
12/29.00

<END>

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12/1	kuesejt 11/7	1/11-11/10 Kmg	11/10 PG.	11/13 PG/RS			

FE Sent For:

<END>



State of Wisconsin • CLAIMS BOARD

101 E. Wilson Street • Post Office Box 7864 • Madison, Wisconsin 53707-7864 • 608-264-9595 • Patricia.Reardon@doa.state.wi.us

DATE: July 18, 2000

TO: Jeffrey Kuesel
Legislative Reference Bureau

FROM: Patricia A. Reardon
Program Assistant

RE: Drafting of Claims Legislation

Attached, please find a copy of the proceedings from the meeting held by the State Claims Board on June 27, 2000. At that time, the Board recommended that the following claims be paid:

Jodi Dabson Bollendorf

\$10,097.23

The Claims Board members would appreciate it if you would draft the necessary legislation for this claim. Senator Brian Burke will sponsor the bill. Thank you for your assistance in this matter.

project within budget. DOA states that the claimant's contract was written with their April 28, 1998, letter attached with a handwritten note indicating that cold weather protection was the contractor's responsibility. According to DOA records, the claimant was again told at a November 1998 construction meeting that DOA would not pay cold weather protection. In order to resolve the matter, DOA agreed to pay for fuel for temporary heat and the concrete plant charges to heat the concrete. A change order for \$3,838 was prepared to compensate the claimant for these costs in full and final settlement of their claim.

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. [Member Main not participating.]

6. Jodi Dabson Bollendorf of Janesville, Wisconsin claims \$10,097.23 for attorney's fees incurred because of an ethics grievance filed against the claimant. The claimant is an Assistant District Attorney in Rock County. In January 1999, she received notice from the Board of Attorneys Professional Responsibility that an ethics grievance had been filed against her. This grievance alleged that the claimant made false statements to the court at sentencing in the case of *State v. Donald Lee Pippin*, while acting in her official capacity as an ADA for Rock County. The claimant states that she cooperated fully with BAPR's investigators. The claimant states that she was advised by colleagues to obtain legal counsel to represent her interests at the BAPR hearing. At the investigatory hearing, BAPR concluded "there was not clear and convincing evidence that Ms. Bollendorf made any false or misleading statements to the court." The claimant's legal counsel sent a letter to BAPR pointing out the specific misrepresentations made in the complaint against Ms. Bollendorf. Based upon the entire investigation, in November 1999, the Administrator of BAPR found no violation of rules by the claimant and dismissed the matter. Since she was acting in her capacity as an ADA representing the State of Wisconsin and was found not to have violated the rules of professional responsibility, the claimant requests reimbursement for her attorney's fees.

The Department of Administration recommends payment of this claim from the funds appropriated to the Department of District Attorneys. The Rock County District Attorney, David O'Leary, also reviewed the actions of the claimant that were challenged before BAPR and concluded that the charges were without merit. He fully supports payment of the claimant's legal costs. In addition, the Department of Justice has reviewed this claim and also recommends payment stating, "it is very important for prosecutors to know that when they act ethically in carrying out their responsibility to fairly enforce criminal laws of this state, the state will stand behind them. A contrary result could chill effective prosecution and law enforcement." Before obtaining private counsel, it would have been appropriate for the claimant to have contacted the State Prosecutors Office in DOA and requested its assistance in obtaining DOJ representation for her before BAPR. The policy of DOJ is to represent prosecutors and others when actions are filed against them with the intent of negatively impacting their ability to carry out their job duties and where there is no other valid basis apparent for the action. DOA is re-issuing information to all prosecutors on the proper procedure to follow when such instances occur. DOA believes that payment of this claim will help assure the over 425 state prosecutors in Wisconsin that their efforts in support of public safety are valued, supported and protected by the state.

The Board recommends that the claim be paid in the amount of \$10,097.23 based on equitable principles. The Board further recommends that payment be made from the District Attorney appropriation s. 20.475(1)(d), Stats. [Members Albers and Wiley dissenting.]

7. Robert and Carole Hawthorne of Waukesha, Wisconsin, claim \$4,731.95 for overpayment of corporate income taxes for the year 1993. The claimants own their own cleaning business. The claimants state that they failed to file the taxes in question because of a series of personal family crises. Between 1992 and 1995 Robert Hawthorne was disabled and unable to work, Carole's mother was

The Board concludes:

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

Veaster Tillmon, Jr.
 Hazel Samuel
 Westra Construction
 Robert and Carole Hawthorne
 Georgianne Henning
 Ronald Springer
 Peggy S. Thran
 Ken Truman
 Anthony W. Wielgosz

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

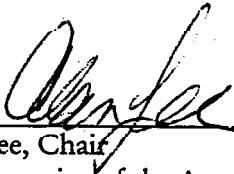
Roque Chavez	\$1,170.00
Ameritech, Inc.	\$5,000.00
Barbara Hestekin	\$5,000.00

3. The claim of Frederick Saecker should not be considered until all outstanding legal appeals have been exhausted.

The Board recommends:

Payment of \$10,097.23 from the Department of District Attorneys to Jodi Dabson Bollendorf for attorney's fees incurred in relation to her job as an Assistant District Attorney.

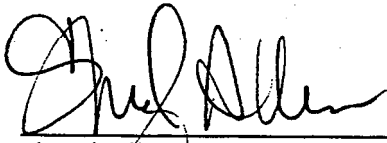
Dated at Madison, Wisconsin this 13 ~~th~~ day of July 2000.



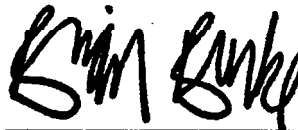
Alan Lee, Chair
 Representative of the Attorney General



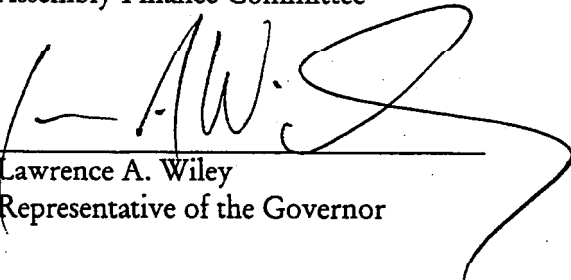
Edward D. Main, Secretary
 Representative of the Secretary of Administration



Sheryl Albers
 Assembly Finance Committee



Brian Burke
 Senate Finance Committee



Lawrence A. Wiley
 Representative of the Governor

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0238/P1ins

JTK... King

D-NOTE

AN ACT... relating to: expenditure of \$10,097.23 from moneys appropriated to the department of administration in payment of a claim against the state made by Jodi Dabson Bollendorf.

analysis - attached

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

SECTION 1. Claim against the state. (1) There is directed to be expended from the appropriation under section 20.475 (1) (d) of the statutes, as affected by the acts of 1999 and 2001, \$10,097.23 in payment of a claim against the state made by Jodi Dabson Bollendorf, Janesville, Wisconsin, as reimbursement for attorney fees incurred in defending herself in the investigation of an ethics grievance filed against her with the Board of Attorneys Professional Responsibility in 1999. Acceptance of this payment releases this state and its officers, employees and agents from any further liability resulting from expenses incurred by the claimant in defending herself in this investigation.

(END)

employees,

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0238/P1ins2
JTK.....

This bill directs expenditure of \$10,097.23 from moneys appropriated to the department of administration (DOA) for the 1999-2001 fiscal biennium to pay the salaries and fringe benefits of district attorneys and state ~~employees~~ ^{employees} in the offices of district attorneys and certain other related costs in payment of a claim against DOA made by Jodi Dabson Bollendorf. The claimant is employed by the state as an assistant district attorney in Rock County. In January 1999, the claimant received notice from the Board of Attorneys Professional Responsibility (BAPR) that an ethics grievance had been filed against her relating to alleged false statements that she made to the circuit court at a sentencing hearing. The claimant retained private legal counsel to represent her during an investigation of the complaint conducted by BAPR. In November 1999, the administrator of BAPR found no violation by the claimant of the rules of professional responsibility and dismissed the complaint. The claimant claimed reimbursement for \$10,097.23 in attorney fees which she incurred in the matter.

Under s. 895.46 (1), stats., the state may either provide representation or pay attorney fees for a state ~~employee~~ ^{employee} who is a defendant in an action or proceeding arising with respect to a matter within the scope of employment, provided the ~~employee~~ ^{employee} gives timely notice to his or her department head. Under s. 165.25 (6) (a), stats., the attorney general may appear for any state ~~employee~~ ^{employee} in a matter brought before an administrative agency at the request of the ~~employee's~~ ^{employee} department head. In the instant case, the claimant did not notify DOA and DOA did not request representation by the attorney general. However, the claims board recommended payment of this claim on July 13, 2000, based upon equitable principles. See 1999 *Senate Journal*, p. [not published as of ~~1/17/00~~].

For further information see the ~~state~~ ^{employee's} fiscal estimate, which will be printed as an appendix to this bill.

November 7, 2000

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0238/P1dn

JTK.....

KMG

Senator Burke:

As of November 7, the report of the claims board dated July 13, 2000, in which the action of the board on this claim is reported, had not appeared in the *Senate Journal*. I understand that it will appear shortly. I have therefore made this draft preliminary so that the *Journal* reference can be inserted. I will take care of this as soon as possible after publication of the report.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0238/P1dn
JTK:kmg:pg

November 10, 2000

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As of November 7, the report of the claims board dated July 13, 2000, in which the action of the board on this claim is reported, had not appeared in the *Senate Journal*. I understand that it will appear shortly. I have therefore made this draft preliminary so that the *Journal* reference can be inserted. I will take care of this as soon as possible after publication of the report.

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Managing Attorney
Phone: (608) 266-6778



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0238/P1

JTK:kmg:pg

WANTED SOON

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

- 1 **AN ACT relating to:** to expenditure of \$10,097.23 from moneys appropriated to
2 the department of administration in payment of a claim against the state made
3 by Jodi Dabson Bollendorf.

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This bill directs expenditure of \$10,097.23 from moneys appropriated to the department of administration (DOA) for the 1999-2001 fiscal biennium to pay the salaries and fringe benefits of district attorneys and state employees in the offices of district attorneys and certain other related costs in payment of a claim against DOA made by Jodi Dabson Bollendorf. The claimant is employed by the state as an assistant district attorney in Rock County. In January 1999, the claimant received notice from the Board of Attorneys Professional Responsibility (BAPR) that an ethics grievance had been filed against her relating to alleged false statements that she made to the circuit court at a sentencing hearing. The claimant retained private legal counsel to represent her during an investigation of the complaint conducted by BAPR. In November 1999, the administrator of BAPR found no violation by the claimant of the rules of professional responsibility and dismissed the complaint. The claimant claimed reimbursement for \$10,097.23 in attorney fees which she incurred in the matter.

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pp. 704-705
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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

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7 this payment releases this state and its officers, employees, and agents from any
8 further liability resulting from expenses incurred by the claimant in defending
9 herself in this investigation.

10

(END)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0238/a

JTK:kmg:rs

wanted soon

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BILL

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10

(END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

December 29, 2000

MEMORANDUM

To: Senator Burke

From: Jeffery T. Kuesel, Managing Attorney

Re: LRB-0238 Jodi Bollendorf claim

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

1-3-01 send to Rep. Albers per Sen. Burkes off.

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-6778 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.