

2001 ASSEMBLY BILL 899

March 7, 2002 – Introduced by Representative HOVEN. Referred to Committee on Rules.

- 1 **AN ACT relating to:** the expenditure of \$1,483,781.60 from moneys appropriated
2 to the department of transportation for payment of a claim against the state
3 made by James Cape and Sons Company.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$1,483,781.60 from moneys appropriated to the department of transportation (DOT) in payment of a claim made by James Cape and Sons Company against DOT. During the period from 1995 to 1997, the claimant performed work for DOT under contract for the construction of a storm sewer at Lake Parkway from East Morgan Avenue to the Lake Michigan outfall in Milwaukee County. The claimant alleges that it performed additional work on this project and incurred related costs that were not contemplated by its contract with DOT. The costs resulted from DOT's refusal to permit the claimant to use a certain kind of trench backfill and DOT's failure to provide the claimant with access to the project right of way by ensuring relocation of certain power lines and railroad tracks, plus interest and claim preparation costs. DOT alleges that the specifications required the type of backfill that was used on the project and that the contract did not require DOT to ensure that power lines and railroad tracks be relocated. On December 21, 2001, the claims board recommended denial of this claim (see *Senate Journal*, pp. 493-494).

ASSEMBLY BILL 899

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:

1 **SECTION 1. Claim against the state.** There is directed to be expended from
2 the appropriation account under section 20.395 (3) (bq), (br), or (bx) of the statutes,
3 or any combination thereof, as determined by the department of transportation,
4 \$1,483,781.60 in payment of a claim against the state made by James Cape and Sons
5 Company, Racine, Wisconsin, to compensate it for the costs of additional work that
6 was not contemplated under its contract with the department of transportation for
7 construction of a storm sewer in Milwaukee County at Lake Parkway during the
8 period from 1995 to 1997 and certain related costs. Acceptance of this payment
9 releases this state and its officers, employees, and agents from any further liability
10 to the claimant resulting from the performance of this work.

11

(END)