

Committee Name:
Senate Committee –
Judiciary, Corrections and Privacy
(SC–JCP)

Appointments

03hr_SC–JCP_Appt_pt00

Committee Hearings

03hr_SC–JCP_CH_pt00

Committee Reports

03hr_SC–JCP_CR_pt00

Clearinghouse Rules

03hr_SC–JCP_CRule_03–

Executive Sessions

03hr_SC–JCP_ES_pt00

Hearing Records

03hr_ab0548

03hr_sb0000

Misc.

03hr_SC–JCP_Misc_pt00

Record of Committee Proceedings

03hr_SC–JCP_RCP_pt00



2601 CROSSROADS DRIVE • SUITE 185 • MADISON, WI 53719-7923 • 608/244-7150 • FAX 608/244-9030

October 6, 2003

Representative Mark Gundrum, Chair
Assembly Committee on Judiciary
P.O. Box 8952
Madison, WI 53708-8952

Dear Chair Gundrum:

On behalf of the Wisconsin Grocers Association, we are writing to urge your support for Assembly Bill 548, which limits the amount of bond set by a court in a civil action.

Wisconsin Grocers Association supports this bill because we believe such legislation will protect valuable jobs in Wisconsin, especially those in small businesses.

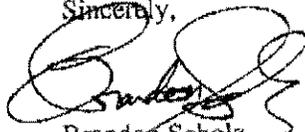
Court verdicts with settlements that are a significant amount of money may threaten the economic viability of companies and endanger jobs. In order to salvage a business, most employers attempt to file an appeal. The bill shall protect this appeal process by not requiring excessive bonds to be paid before filing an appeal. Paying this bond makes a business vulnerable to bankruptcy, especially small businesses.

Bankruptcy and downsizing negatively affect American workers the hardest. Capping the appeal bond is a fair and reasonable solution that protects workers and employers. Unreasonable appeal bonds create unnecessary economic and employment problems that may be addressed in imposing limits on those bonds.

The Wisconsin Grocers Association thanks you for your support of all workers and employers in the state of Wisconsin.

If you have any questions, feel free to contact us. Thank you.

Sincerely,



Brandon Scholz
WGA President



Michelle Kussow
VP-Government Affairs & Communications

Cc: Members of Assembly Judiciary Committee



Wisconsin Merchants Federation

"The Voice of Wisconsin Retailing"

1 East Main Street, Suite 305
Madison, Wisconsin 53703
Telephone 608/257-3541
Fax 608/257-8755
E-mail wimerfed@execpc.com

October 13, 2003

bc: S. Stenz

OFFICERS

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Alan Rudnick
Rudnick Jewelers
Sheboygan

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**Sr. Vice President
& General Counsel**
Douglas Q. Johnson

V.P./Operations
Mary C. Kaja

Representative Mark Gundrum
P.O. Box 8952
Madison WI 53708

Mark

Dear Representative Gundrum:

On behalf of the members of the Wisconsin Merchants Federation we write in support of AB 548. Fairness and due process require a reasonable limit that caps the amount of a bond in large cases that threaten the very existence of the company (and jobs) involved. AB 548 strikes a fair balance.

Thank you.

Sincerely,

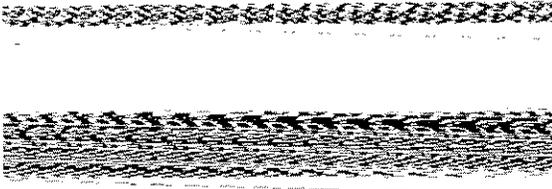
Chris Tackett
President and CEO

Douglas Q. Johnson
Sr. Vice President/General Counsel

CCT:DQJ:mb

cc: Members of the Assembly Judiciary Committee

ab548/1



October 13, 2003

Representative Mark Gundrum, Chair, and
Members of the Assembly Judiciary Committee
State Capitol
Madison, WI

Electronically Submitted

RE: AB 548 relating to the amount of bond set by a court in a civil action

Dear Rep. Gundrum and Members of the Committee:

The Metropolitan Milwaukee Association of Commerce (MMAC) is the state's largest regional business organization, promoting and protecting the interests of approximately 2,500 business members in the greater-Milwaukee region which account for nearly 300,000 jobs in southeastern Wisconsin. It is on their behalf that I am writing to express our support for AB 548 relating to the amount of bond set by a court in a civil action.

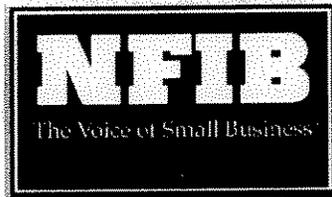
In today's litigious society companies are being forced to make decisions that often times can lead to bankruptcy and job loss. In our legal system, the right to appeal is paramount for both plaintiffs and defendants, however a company choosing to appeal a large verdict should not have to do so in fear of bankruptcy or seizure of property due to an exorbitant bonding requirement. Large judgments against business interests are becoming more and more common, and while the right to appeal is a fundamental legal right for defendants and plaintiffs alike, excessive and unrealistic appellate bonding requirements that companies are clearly unable to pay can discourage realistic settlement of these types of cases.

By limiting appellate bond requirements, this legislation will still protect plaintiffs while still allowing most companies to remain financially viable through the judicial process. This legislation promotes fairness and sets reasonable standards for both plaintiffs and defendants in these types of cases, while keeping in mind the economic development and job retention impact these cases can potentially have on businesses and our economy as a whole.

We urge you all to support AB 548. Thank you very much.

Sincerely,

Nathan Elias
Director of Governmental Affairs



WISCONSIN

Memorandum

TO: Members of the Assembly Committee on Judiciary

FROM: Bill G. Smith, State Director

DATE: October 13, 2003

RE: Assembly Bill 548

Wisconsin's small business owners support a civil justice system based on fairness, efficiency and equal opportunity. Members of NFIB/Wisconsin have endorsed an aggressive legal reform agenda that embraces these principles.

Assembly Bill 548, which would limit the amount of bond in civil actions, would protect litigants from unreasonable and excessive bond requirements while preserving the right to appeal a judgment without the threat of bankruptcy.

On behalf of the small business community, I respectfully urge members of the Assembly Judiciary Committee to recommend Assembly Bill 548 for passage.

Thank you for your consideration.



TEAMSTERS LOCAL UNION NO. 344

Affiliated with the International Brotherhood of Teamsters

10020 West Greenfield Avenue • Milwaukee, Wisconsin 53214
Business Phone (414) 258-4545 • Toll-Free 1-800-542-2444 • FAX (414) 258-9465

Paul G. Lovinus
Secretary-Treasurer

William Carroll
President

October 14, 2003

The Honorable Mark Gundrum, Chairman
Wisconsin Assembly Committee on Judiciary
Room 19 North
State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Chairman Gundrum and Members of the Assembly Committee on Judiciary:

I am Secretary-Treasurer of Teamsters Local 344. My responsibility is to fight for the expansion of family supporting jobs. I am strongly committed to the rights of working men and women. I am also strongly committed to seeing that injured people are fully compensated for their injuries. Because both of those principles are so important to me, I support Assembly Bill 548.

I have read AB 548 very carefully. It does not in any way limit damages for people who are injured, and I assure you I would not support it if it did. In fact, in no way does AB 548 affect the rights of *any* plaintiffs to be fully compensated for their injuries, no matter how large their damages are. If a jury delivers a large verdict in favor of a plaintiff, and that verdict is upheld on appeal, the defendant is still required to pay the plaintiff the full amount of the judgment. I also believe that, by ensuring that companies are not bankrupted by absurd appeal bond requirements, the bill will help assure that people who obtain judgments will have solvent defendants from whom they can collect.

What AB 548 does do is make sure that companies who have huge judgments against them can post an appeal bond in a reasonable amount. This is critically important for several reasons. First, in order for workers in our state to have more jobs and better jobs, Wisconsin must have an economy that is sensitive to the decisions businesses make when deciding to expand or locate a business. That is the only way that Wisconsin can remain competitive with other states in attracting businesses to our state, and in preventing the businesses that are already here from leaving. AB 548 ensures that no company is driven out of business just so it can appeal a huge judgment against it. If Wisconsin companies can remain healthy throughout the appeals process, the jobs of their employees are protected.

Brian Willey – Vice President **George Hamilton** – Recording Secretary

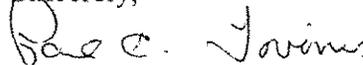
Trustees: **Terry Borchardt, Brian Barber, Dorinda Himmelsbach**

DC: 1027852-1
Business Representatives/Organizers: **Mark Weissbrodt, Robert Weber, Vinnie Lepak, Jack Redmond, Brian Zodrow, Tom Kanack**

AB 548 not only helps to protect the jobs of workers today, but it also guarantees that they have full access to their pensions tomorrow. Kraft Foods is one of the largest employers in Wisconsin, and my union represents many workers who deal regularly with various Kraft plants. Kraft's parent company is Altria, and Philip Morris is also part of the Altria family of companies. I watched in dismay the roller coaster ride that Altria's stock went on after the verdict in the Price case against Philip Morris in Illinois. I am no expert on the intricacies of that case, but I do know that when the court required Philip Morris to post a \$12 billion bond, Altria's stock took a drastic drop. The stock eventually came back slightly when the court lowered the bond to \$6 billion. But \$6 billion is still an absurd amount for a company to pay just to appeal a verdict against it. If Philip Morris has to post a similar bond in other cases, Altria's stock will probably fall sharply again. This could adversely affect the pensions of all Kraft workers in Wisconsin as well as workers for other companies whose pension funds invest in Altria.

The Assembly can ensure that Wisconsin's workers keep both their jobs today and their pensions tomorrow, and also ensure that plaintiffs are fully compensated for their injuries, by adopting AB 548. Thank you for your support of this important piece of legislation.

Sincerely,

A handwritten signature in cursive script that reads "Paul G. Lovinus". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Paul G. Lovinus



UNITED ASSOCIATION

of Journeymen and Apprentices of the
Plumbing and Pipe Fitting Industry of
the United States and Canada

Founded 1889

Letters should
be confined to
one subject

UA Local Union:

Subject:

Martin J. Maddaloni
General President

Thomas H. Patchell
General Secretary-Treasurer

William P. Hite
Assistant General President

October 14, 2003

To: Distinguished Members of the Assembly Judiciary Committee

Fr: Kevin LaMere
Business Manager

Re: Support for Assembly Bill 548

As Business Manager for Steamfitters Local 601, I represent the economic interests of hundreds of working men and women in the greater Milwaukee area. As our livelihoods depend on the financial solvency of the businesses we serve, we strongly urge your support of Assembly Bill 548.

We do not support the guilty actions of companies. We do, however, support the right to appeal as a fundamental part of our judicial process. We believe that a company should not be forced into bankruptcy to pursue their legal right to an appeal. If the cost to appeal reaches into the hundreds of millions of dollars, it poses a significant threat to a company's ability to continue to provide family-supporting jobs. In that scenario, working men and women suffer first and suffer the hardest.

Capping the cost to appeal a judgment at \$100 million will protect working men and women and preserve family-supporting jobs. Plaintiffs are protected by a large, but limited bond. Workers are protected because businesses will be able to continue to operate through the appeal process.

Again, we urge you to consider the economic and employment problems created by unreasonable appeal bonds. Please address this issue by passing Assembly Bill 548. Thank you for your consideration.

Professional Fire Fighters of Wisconsin, Inc.

7 North Pinckney Street • Suite 135 • Madison, Wisconsin 53703-2840 • 608/251-5832
Fax 608/251-8707

Member of INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
Member of WISCONSIN STATE A.F. of L.-C.I.O.



Rick Gale
State President
2831 South 114th Street
West Allis, WI 53227
Home Phone (414) 321-6590
Fire Phone (414) 774-7114
Fax (414) 321-7596

Robert Baird
State Vice-President
960 S. Springdale Road
Waukesha, WI 53186
Home Phone (262) 798-0343
Fire Phone (262) 781-1375
Fax (262) 798-1541
Cell Phone (414) 429-2590
e-mail: exbdbaird@aol.com

Michael Drury
State Sec.-Treas.
1400 East 7th Street
Merrill, WI 54452
Home Phone (715) 536-9645
Fire Phone (715) 536-2522
Fax (715) 539-9190
Cell Phone (414) 429-2583
e-mail: drury@dwave.net

October 14, 2003

To: Members of the Assembly Judiciary Committee
Fr: Rick Gale, President, Professional Firefighters of Wisconsin
Re: Support for Assembly Bill 548

On behalf of the Professional Firefighters of Wisconsin, I respectfully ask your consideration of and support for Assembly Bill 548.

Wisconsin firefighters depend on good investments in their pension fund and other such funds. It is of great concern to firefighters in this state that the solvency of their retirement funds could be jeopardized due to an extraordinary appeal bond requirement. We believe a company should be able exercise its right to appeal a civil judgment without being forced into bankruptcy.

We understand that AB 548 does not in any way limit what a final judgment may be, but only the amount required to be posted while a judgment is appealed. It is our opinion that the proposed \$100 million appeal limit is large enough to cover even the very high stakes cases, without causing economic hardship for impacted pension funds and others with economic ties to the business.

Again, on behalf of Wisconsin firefighters, I respectfully ask that you support Assembly Bill 548. Thank you.



Kenneth G. Kraemer
Marketing Representative
(262) 628-3927
Fax: (262) 628-5097
E-mail: mail2ken@execpc.com

October 14, 2003

The Honorable Mark Gundrum, Chairman
Wisconsin Assembly Committee on Judiciary
P.O. Box 8952
Madison, WI 53708

Dear Chairman Gundrum:

On behalf of the 7,800 working men and women within the plumbing, steamfitting and fire sprinkler industries in Wisconsin, I register the support of the Wisconsin Pipe Trades Association (WPTA) for Assembly Bill 548.

The WPTA supports AB 548 for two reasons. One, we believe this legislation protects and promotes family supporting jobs in Wisconsin. Secondly, this legislation helps safeguard the retirement accounts of thousands of Wisconsin working men and women.

A key ingredient for our state to retain and create more jobs is to generate a business climate that is sensitive to the decisions businesses make when deciding to expand or relocate. AB 548 helps create this sort of climate by ensuring Wisconsin companies can remain healthy throughout an appeals process and that employees are not put out of work workers just so a business can appeal a judgment against it. Many hard working WPTA members have helped build, maintain and expand the Kraft food plants throughout Wisconsin. This legislation helps ensure we will continue this work.

The stocks of businesses required to post a huge bond for an appeal suffer. This adversely affects the pensions of working men and women invested in those businesses. A worker's retirement account should not suffer because a company his or her pension is invested in is appealing a verdict against it.

The \$100 million bond cap contained in AB 548 is reasonable and fair for everyone. Plaintiffs maintain protection through a large but limited bond while the jobs and retirement accounts of working men and women are shielded from the negative consequences of absurd appeal bond requirements.

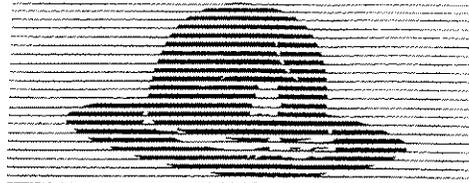
Please feel free to contact me should you have any questions or concerns. Thank you for your consideration.

Sincerely,

Ken Kraemer

Cc: Representative Scott Suder

Executive Director
Casey Perry
caseyperry@juno.com



Wisconsin Troopers' Association, Inc.
2099 Ironwood Dr, Green Bay, WI 54304
1-800-232-1392

October 14, 2003

Chairman Mark Gundrum
Assembly Judiciary Committee Members
P.O. Box 8952
Madison, WI 53708

Dear Chairman Gundrum and Assembly Judiciary Committee Members:

The Wisconsin Troopers' Association supports reasonable limits on appeal bonds.

Wisconsin troopers depend on the investments in their state pension fund and other such accounts for retirement. We are concerned that the solvency of our retirement funds could be jeopardized due to an extraordinary appeal bond requirement. Limits on appeal bonds help protect our members' retirement funds from the drastic stock price fluctuations caused by absurd bond appeal requirements.

We believe that injured parties should be compensated and do not support any limits on final judgments. However, we believe a company should be able to exercise its right of appeal without being financially crippled.

It is our opinion that the proposed \$100 million appeal limit contained in AB 548 is reasonable and fair without causing economic hardship for impacted pension funds and others with economic ties to the business.

Thank you for your consideration.

Sincerely,

Casey Perry
Executive Director

Cc: Representative Scott Suder



Proud Member of the National Troopers Coalition



Memo

TO: Members of the Assembly Judiciary Committee
FROM: James A. Buchen, Vice President, Government Relations
DATE: October 14, 2003
RE: Support for Assembly Bill 548 – Cap on Civil Action Bonds

Background

Current law may require a defendant who seeks to appeal an adverse judgment to post a bond. In most states the bond equals or exceeds the size of the judgment. Wisconsin law allows a bond in an amount equal to the size of the judgment.

Bonds are intended to provide the plaintiff with security in the judgment while also protecting the defendant from having the plaintiff seize its assets while the defendant appealed. The bonding requirement developed at a time when most litigation involved individuals, not well-established companies, and at a time when multi-million or –billion dollar verdicts were not common.

WMC Position

Limiting the amount of an appeal bond will permit litigants to appeal adverse decisions. A defendant that is required to post a bond on a “mega-judgment” could face the very real prospect of bankruptcy.

If a company cannot afford a bond, it can appeal, but its assets can be taken by the plaintiff despite the appeal. As a practical matter this effectively eliminates the right to appeal, and forces the defendant to seek an unfavorable settlement even when it has good arguments that the trial verdict was improper. Companies that are otherwise healthy can be threatened, along with the jobs of their employees, by excessive bonding requirements.

A defendant that is required to post a bond on a multi-billion dollar judgment in order to keep its assets while it appeals may simply be unable to do so, even if it has strong arguments that the trial verdict was improper. Its only recourse then would be to seek bankruptcy protection, because that may be the only way to obtain a stay of execution during the appeal.

Support for AB 548

For these reasons Wisconsin Manufacturers and Commerce urges the committee to vote in **support** of AB 548.

*Wisconsin Coalition
for Civil Justice*

TO: Members, Assembly Committee on Judiciary

FROM: Wisconsin Coalition for Civil Justice
Bill Smith, President & Jim Hough, Legislative Counsel

DATE: October 14, 2003

RE: **SUPPORT FOR AB 548**

On behalf of the Wisconsin Coalition for Civil Justice (WCCJ), we strongly endorse and respectively urge your support for AB 548 relating to bond caps for appeals in civil cases.

The Coalition's mission is to support a rational and reasonable civil justice system that promotes fairness under rules and procedures that provide all parties with an equal opportunity to obtain a just result.

Assembly Bill 548 is a fairness bill. It assures litigants that the right to appeal a judgment in civil cases is protected. The right to an appeal is no less sacred than the right to commence an action or the right to a trial by jury. The right to appeal should not be threatened by the potential for the requirement of an excessive appeal bond. The result of an excessive appeal bond is either to deny the basic right to appeal or to force bankruptcy. Neither result belongs in a fair civil justice system.

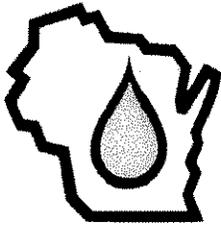
For the above stated reasons, the WCCJ and its members (see attached) urge favorable consideration by the committee so that the proposal can advance through the process and become the law in Wisconsin.

Thank you.

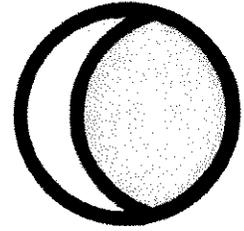
*Wisconsin Coalition
for Civil Justice*

WCCJ Members

- **American Council of Engineering**
- **American Insurance Association**
- **Associated Builders & Contractors of Wisconsin**
- **Associated General Contractors of Wisconsin**
- **Building Industry Council**
- **Civil Trial Counsel of Wisconsin**
- **Community Bankers of Wisconsin**
- **National Federation of Independent Business**
- **Petroleum Marketers Association of Wisconsin**
- **Professional Insurance Agents of Wisconsin**
- **Tavern League of Wisconsin**
- **Wisconsin Asbestos Alliance**
- **Wisconsin Association of Consulting Engineers**
- **Wisconsin Association of Manufacturers & Commerce**
- **Wisconsin Auto & Truck Dealers Association**
- **Wisconsin Builders Association**
- **Wisconsin Economic Development Association**
- **Wisconsin Federation of Cooperatives**
- **Wisconsin Grocers Association**
- **Wisconsin Health & Hospital Association**
- **Wisconsin Institute of CPA's**
- **Wisconsin Insurance Alliance**
- **Wisconsin Medical Society**
- **Wisconsin Merchants Federation**
- **Wisconsin Mortgage Bankers Association**
- **Wisconsin Motor Carriers Association**
- **Wisconsin Paper Council**
- **Wisconsin Petroleum Council**
- **Wisconsin Realtors Association**
- **Wisconsin Restaurant Association**
- **Wisconsin Society of Architects**
- **Wisconsin Society of Land Surveyors**
- **Wisconsin Transportation Builders Association**
- **Wisconsin Utilities Association**
- **Wisconsin Utility Investors**



PMAW



WACS

October 15, 2003

**Representative Mark Gundrum, Chair
Assembly Committee on Judiciary
P.O. Box 8952
Madison, WI 53708**

Dear Representative Gundrum

On behalf of the Petroleum Marketers Association of Wisconsin/Wisconsin Association of Convenience Stores (PMAW/WACS), I am writing to urge your support for Assembly Bill 548.

AB 548 limits the amount of bond set by a court in a civil action. When small business owners face court judgments of significant monetary value, often, there only recourse is to file an appeal. However, requiring excessive bonds to be paid before filing an appeal makes small businesses vulnerable to bankruptcy. Imposing limits on appeal bonds not only ensures fair access to the appeals process but also protects small businesses and their employees.

PMAW/WACS is pleased to join other business owners and their employees throughout Wisconsin in support of this legislation. Thank you again for your time and consideration.

Sincerely,

**Matthew C. Hauser
Director of Government Affairs**

PMAW/WACS represents over 500 independent businesses engaged in petroleum marketing, convenience stores, truck stops and related businesses. PMAW/WACS members employ over 12,000 people, operate 2,500 stations and stores, account for more than one-half of the motor fuel and nearly all the home heating oil sold in Wisconsin

**PETROLEUM MARKETERS
ASSOCIATION OF WISCONSIN**

**WISCONSIN ASSOCIATION
OF CONVENIENCE STORES**

Representing Independent Business

121 S. PINCKNEY STREET • SUITE 300 • MADISON, WISCONSIN 53703-3338 • (608) 256-7555 • FAX: (608) 256-7666 • www.pmawwacs.org



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 548	Assembly Amendment 1
<i>Memo published:</i> October 22, 2003	<i>Contact:</i> Don Dyke, Chief of Legal Services (266-0292)

Under current law, a trial court or an appellate court has broad authority to grant relief pending an appeal and may condition that relief upon the filing of an undertaking (bond). Section 808.07 (2), Stats.

Assembly Bill 548 provides that during the pendency of an appeal, a trial court or appellate court may not require a bond of all appellants (parties appealing) collectively that exceeds \$100 million. However, notwithstanding the \$100 million limit if an appellee (party not appealing) proves by a preponderance of the evidence that an appellant is dissipating assets outside the ordinary course of business to avoid payment of a judgment, a court may enter any order necessary to protect the appellee and may require the appellant to post bond in an amount not to exceed the amount of the judgment.

Assembly Amendment 1 revises the language imposing the limit on the amount of bond that may be required by specifying that the limit applies during the pendency of an appeal of a judgment in "any" civil action and that the limit applies to bonds required in connection with staying the execution of the judgment during appellate review. The proposal's exception to the bond limit is unaffected by the amendment.

Assembly Amendment 1 was offered by Representative Suder. The amendment was recommended for adoption by the Assembly Committee on Judiciary by a vote of Ayes, 8; Noes, 0.

DD:tlu:ksm;wu

10/27/2003

1 **Proposed Amendment to AB 548**

2
3 *The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

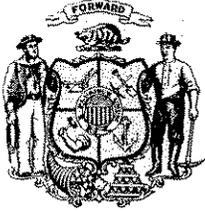
4
5 **Section 1.** 808.07 (2m) of the statutes is created to read:

6 808.07 (2m) LIMIT ON UNDERTAKING. (a) During the pendency of an appeal of a
7 judgment in any civil action brought under any legal theory, the amount of the undertaking to be
8 furnished by a trial court or appellate court may not require an undertaking of all appellants
9 collectively in order to stay the execution of the judgment during the entire course of all
10 appellate review shall not that exceeds \$100,000,000, regardless of the value of the judgment.

11 (b) Notwithstanding par. (a), if an appellee proves by a preponderance of the evidence
12 that an appellant is dissipating assets outside the ordinary course of business to avoid payment of
13 a judgment, a court may enter any order necessary to protect the appellee and may require the
14 appellant to post a bond in an amount now to exceed the amount of the judgment.

15 **SECTION 2. Initial applicability.**

16 (1) This act first applies to actions commenced or pending on the effective date of this
17 subsection.



TED KANAVAS

STATE SENATOR

Date: Tuesday, October 28, 2003

To: Members of the Senate Committee on Judiciary, Corrections and Privacy

From: Senator Kanavas

Re: Testimony in support of SB 273 - Limiting the bond in a civil action

Good morning Chairman Zein and Committee members. Thank you for allowing me the opportunity to testify before the Senate Committee on Judiciary, Corrections and Privacy.

I am here today to ask you to support a bill that Representative Suder and I co-authored, Senate Bill 273, which will limit the amount of bond set by a court in a civil action. This bill, along with companion bill, Assembly Bill 548, has broad bi-partisan support as indicated by the list of co-sponsors. Additionally, SB 273 and AB 548 have received broad support from 26 different Labor, Business Agriculture organizations.

Wisconsin currently requires a defendant who seeks an appeal of a judgment to post a bond equal to the size of the judgment. This bond requirement originated a long time ago when most litigation involved damages from individuals, not from well-established businesses. Since that time, we have seen verdicts reach ~~the~~ multi-million, and multi-billion dollar range.

Today, a defendant (or a company in this example) who is required to post a bond on a multi-million or billion dollar judgment may not be able to do so, even if it has a solid argument and wishes to appeal the verdict. Many times, the only recourse would be to file bankruptcy in order to obtain a stay of execution during the appeal.

As I mentioned earlier, there is broad bi-partisan support for a solution to this problem. SB 273 and AB 548 would limit the amount of bond set by an appellant court in a civil case of **not more than \$100 million**. This represents a fair and reasonable approach to an appellant's right to appeal a civil verdict without bankrupting a company to meet multi-billion dollar appeal bonds. Plaintiffs would be protected by the large but limited bond while appellants would be permitted their day in court.

STATE CAPITOL

P.O. BOX 7882 • MADISON, WISCONSIN 53707-7882
(608) 266-9174 • (800) 863-8883 • FAX: (608) 264-6914

A key point to this legislation is that in limiting the bond, it does NOT change our substantive law in any way. Bond limits only ensure that defendants can have a full appeal. There is a provision in this bill that will allow a judge to require larger bonds for a defendant that is improperly dissipating its assets.

Since 2000, twenty-four states have enacted some type of bond limitation on the size of appeal bonds. For your reference, I have attached a table from Covington & Burling entitled *Enacted Appeal Bond Legislation*, which shows the action taken by other states.

Additionally, we are requesting that the Senate Committee on Judiciary, Corrections and Privacy, introduce the friendly amendment passed by the assembly to clarify certain provisions of SB 273.

The amendment clarifies that the appeal bond caps proposed in the bill apply to all civil cases to prevent uncertainty for litigants as well as judges.

I thank you for your time and attention this morning and I ask you to support SB 273.

###

The following organizations support Senate Bill 273:

American Petroleum Institute
General Motors
Marathon Oil
Metropolitan Milwaukee Association of Commerce
Miller Brewing Company
National Federation of Independent Business - Wisconsin
Petroleum Marketers Association of Wisconsin/Wisconsin
Association of Convenience Stores
PhRMA
Professional Fire Fighters of Wisconsin
Steamfitters Local 601
Tavern League of Wisconsin
Teamsters Local Union No.344
United Association of Journeymen and Apprentices of the
Plumbing and Pipe Fitting Industry of U.S. and Canada
We Energies
Wisconsin Agri-Business Council
Wisconsin Association of Distributors
Wisconsin Coalition for Civil Justice
Wisconsin Farm Bureau
Wisconsin Grocers Association
Wisconsin Manufacturers and Commerce
Wisconsin Merchants Federation
Wisconsin Petroleum Institute
Wisconsin Pipe Trades
Wisconsin State Troopers' Association
Wisconsin Utilities Association



STATE SENATOR DAVE ZIEN

ASSISTANT MAJORITY LEADER

CHAIRPERSON
 COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY
 VICE CHAIRPERSON
 COMMITTEE ON HOMELAND SECURITY, VETERANS AND MILITARY AFFAIRS AND GOVERNMENT REFORM
 MEMBER
 COMMITTEE ON SENATE ORGANIZATION
 COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
 COMMITTEE ON LABOR, SMALL BUSINESS DEVELOPMENT AND CONSUMER AFFAIRS
 SENTENCING COMMISSION
 COUNCIL ON TOURISM
 JUDICIAL COUNCIL

MEMORANDUM

TO: Senator Cathy Stepp, Member, Senate Committee on Judiciary, Corrections & Privacy

FR: Senator Dave Zien, Chair, Senate Committee on Judiciary, Corrections & Privacy

DT: October 30, 2003 (hand delivered 12:30pm)

RE: Paper Ballot for AB 548 (1 page)

Please consider the following bill and vote on the motion below. **Return this ballot to Senator Dave Zien, Room 15 South, no later than 4:00pm (TODAY), October 30, 2003.** Committee members' ballots not received by the deadline will be marked as not voting.

Assembly Bill 548

Relating to: limiting the amount of bond set by a court in a civil action.

Introduced by Representatives Suder, Kreuser, Gard, Pettis, J. Wood, Friske, Shilling, Musser, Ladwig, McCormick, Jeskewitz, Montgomery, Kaufert, Travis, Hundertmark, Balow, Hubler, Petrowski, Hines, Plouff, J. Fitzgerald, Gunderson, Grothman, Richards, Schneider, F. Lasee, Sherman, Colon, Sinicki, Huebsch and Kreibich; cosponsored by Senators Kanavas, Erpenbach, S. Fitzgerald, Schultz, M. Meyer, Plale, Breske, Welch, Decker, Hansen, Reynolds, Leibham, Darling, Wirch, Lassa, Stepp and Zien.

Please consider the following motion:

- Moved by Senator Zien that ASSEMBLY BILL 548 be recommended for CONCURRENCE:

Aye No

Signature _____

Cathy Stepp
 Senator Cathy Stepp





STATE SENATOR DAVE ZIEN

ASSISTANT MAJORITY LEADER

CHAIRPERSON
 COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY
 VICE CHAIRPERSON
 COMMITTEE ON HOMELAND SECURITY, VETERANS AND MILITARY AFFAIRS AND GOVERNMENT REFORM
 MEMBER
 COMMITTEE ON SENATE ORGANIZATION
 COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
 COMMITTEE ON LABOR, SMALL BUSINESS DEVELOPMENT AND CONSUMER AFFAIRS
 SENTENCING COMMISSION
 COUNCIL ON TOURISM
 JUDICIAL COUNCIL

MEMORANDUM

TO: Senator Tim Carpenter, Member, Senate Committee on Judiciary, Corrections & Privacy

FR: Senator Dave Zien, Chair, Senate Committee on Judiciary, Corrections & Privacy

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Please consider the following motion:

- Moved by Senator Zien that ASSEMBLY BILL 548 be recommended for CONCURRENCE:

Aye No

Signature Tim Carpenter
 Senator Tim Carpenter



