

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_ab0000

03hr_sb0273

Misc.

03hr_SC–JCP_Misc_pt00

Record of Committee Proceedings

03hr_SC–JCP_RCP_pt00

Vote Record

Committee on Judiciary, Corrections and Privacy

Date: 10-28-3

Moved by: Stepp

Seconded by: Zien

AB SB 273 Clearinghouse Rule
AJR SJR Appointment
AR SR Other

WS Amdt LRB 1534 Intro + Adoption

A/S Amdt to A/S Amdt
A/S Sub Amdt
A/S Amdt to A/S Sub Amdt
A/S Amdt to A/S Amdt to A/S Sub Amdt

- Be recommended for:
Passage Adoption Confirmation Concurrence Indefinite Postponement
Introduction Rejection Tabling Nonconcurrency

Table with 5 columns: Committee Member, Aye, No, Absent, Not Voting. Rows include Senator David Zien, Senator Scott Fitzgerald, Senator Cathy Stepp, Senator Gary George, Senator Tim Carpenter, and Totals.

Vote Record

Committee on Judiciary, Corrections and Privacy

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AJR SJR Appointment
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A/S Amdt
A/S Amdt to A/S Amdt
A/S Sub Amdt
A/S Amdt to A/S Sub Amdt
A/S Amdt to A/S Amdt to A/S Sub Amdt

Be recommended for: as amended
Passage Adoption Confirmation Concurrence Indefinite Postponement
Introduction Rejection Tabling Nonconcurrence

Table with 4 columns: Committee Member, Aye, No, Absent, Not Voting. Rows include Senator David Zien, Senator Scott Fitzgerald, Senator Cathy Stepp, Senator Gary George, and Senator Tim Carpenter.

Totals: _____

liability relinquish custody of her newborn child to a law enforcement officer, an emergency medical technician, or a hospital staff member when the newborn child is 72 hours old or younger.

By Senators Kedzie, Reynolds, Schultz, A. Lasee, Lazich, Stepp, Roessler, Cowles, S. Fitzgerald and Kanavas; cosponsored by Representatives M. Williams, Ladwig, Rhoades, Jensen, Albers, Weber, Stone, Krawczyk, Petrowski, Hines, Bies, Suder, Hahn, Olsen, Seratti, Ainsworth, Townsend, Ott, Hundertmark, Nischke, M. Lehman, Gielow, Owens, McCormick, Gunderson, Kerkman, Loeffelholz, J. Fitzgerald, Van Roy, Vrakas, Freese, Jeskewitz, D. Meyer and Lothian.

Please consider the following motion:

- Moved by Senator Stepp, seconded by Senator Zien that SENATE BILL 28 be recommended for PASSAGE:

Aye ~~_____~~ No _____

Senate Bill 181

Relating to: leaving the scene of an accident and providing a penalty.

By Senators S. Fitzgerald, Darling, Erpenbach, Roessler and Kanavas; cosponsored by Representatives Hines, Friske, Zepnick, McCormick, Kreibich, Ainsworth, Ott, Wasserman, Seratti, Gronemus, Hundertmark, Townsend, Hahn, Nass, Bies, J. Fitzgerald, Turner, Van Roy, Pettis, Suder, Owens and Vrakas.

- Moved by Senator Carpenter, seconded by Senator Stepp that SENATE BILL 181 be recommended for PASSAGE:

Aye ~~_____~~ No _____

Senate Bill 273

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

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

- Moved by Senator Stepp, seconded by Senator Zien that Senate Amendment LRBA1534 be recommended for INTRODUCTION and ADOPTION:

Aye ~~_____~~ No _____

- Moved by Senator Stepp, seconded by Senator Zien that SENATE BILL 273 be recommended for PASSAGE AS AMENDED:

Aye X No _____

Assembly Bill 265

Relating to: causing substantial bodily harm to another person and providing a penalty.

By Representatives Suder, Shilling, Albers, Balow, Berceau, Boyle, Coggs, Cullen, Gottlieb, Hahn, Hines, Hundertmark, Kaufert, Krawczyk, Kreibich, Kreuser, Ladwig, Lassa, J. Lehman, Loeffelholz, McCormick, Montgomery, Morris, Musser, Nischke, Owens, Pettis, Plouff, Pocan, Richards, Schooff, Stone, Turner, Van Roy, Wasserman, Weber, Zepnick, Taylor, Gielow, Molepske and Hebl; cosponsored by Senators Stepp, Brown, Darling, Lazich, Robson, Roessler and Wirch.

- Moved by Senator Carpenter, seconded by Senator Stepp that ASSEMBLY BILL 265 be recommended for CONCURRENCE:

Aye X No _____

Assembly Bill 375

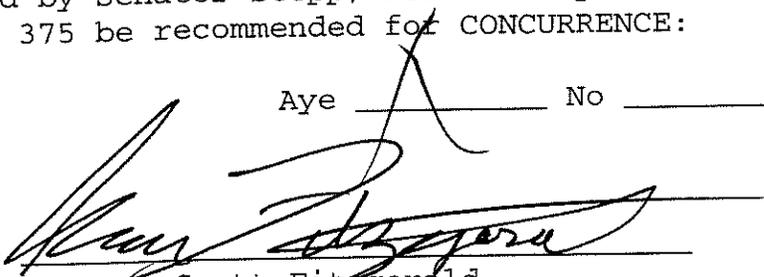
Relating to: leaving the scene of an accident and providing a penalty.

By Representatives Hines, Friske, Zepnick, McCormick, Owens, Kreibich, Ainsworth, Ott, Wasserman, Seratti, Gronemus, Hundertmark, Townsend, Hahn, Nass, Bies, J. Fitzgerald, Turner, Van Roy, Pettis, Suder, Vrakas and Vukmir; cosponsored by Senators S. Fitzgerald, Darling, Erpenbach, Roessler and Kanavas.

- Moved by Senator Stepp, seconded by Senator Carpenter that ASSEMBLY BILL 375 be recommended for CONCURRENCE:

Aye X No _____

Signature



Senator Scott Fitzgerald



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



Senate Committee on Judiciary, Corrections, and Privacy

Testimony in Support of Senate Bill 273

Paul Lovinus, Secretary-Treasurer, Teamsters Local 344

October 28, 2003

Good morning Mr. Chairman and members of the committee. Thank you for the opportunity to testify this morning in support of Senate Bill 273.

As Secretary-Treasurer and Principal Officer of Teamsters Local 344, and also the Chairman of a Multi-Employer Pension Fund, one of my responsibilities 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, I support Senate Bill 273.

Brian Willey – Vice President George Hamilton – Recording Secretary

Trustees: Terry Borchardt, Brian Barber, Dorinda Himmelsbach

Business Representatives/Organizers: Mark Weissbrodt, Robert Weber, Vinnie Lepak, Jack Redmond, Brian Zodrow, Tom Kanack

I have read SB 273 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 this Bill affects 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 ensure that people who obtain judgments will have solvent defendants from whom they can collect.

What SB 273 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. This Bill 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.

This Bill 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, and in fact, I represent a division of Kraft for collective bargaining, and am the Chairman of a Multi-Employer Health Fund for their active and retired Union employees. 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 fine details 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 who have Kraft Pensions

and 401(k)'s in Wisconsin as well as workers for other companies whose pension funds invest in Altria.

The Senate 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 SB 273. Thank you for your support of this important piece of legislation.

I also have letters of support from other Labor Unions, namely, the State Troopers, Steamfitters, Firefighters and the Pipe Trades.



REPRESENTING WISCONSIN BUSINESS

Wisconsin Manufacturers & Commerce

Memo

TO: Members of the Senate Judiciary, Corrections and Privacy Committee

FROM: James A. Buchen, Vice President, Government Relations

DATE: October 28, 2003

RE: Support for Senate Bill 273 – 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 SB 273

For these reasons Wisconsin Manufactures and Commerce urges the committee to vote in **support** of SB 273.

Testimony of Daniel A. Rottier
on behalf of the
Wisconsin Academy of Trial Lawyers
before the
Senate Committee on Judiciary, Corrections and Privacy
Sen. Dave Zien, Chair
on
2003 Senate Bill 273
October 28, 2003

Good morning, Senator Zien and members of the Committee. My name is Daniel A. Rottier. I am the managing partner in the law firm of Habush Habush and Rottier and serve as the Secretary of the Wisconsin Academy of Trial Lawyers (WATL). On behalf of WATL, I thank you for the opportunity to appear today to testify in opposition to Senate Bill 273.

WATL, established as a voluntary trial bar, is a non-profit corporation with approximately 1,000 members located throughout the state. The objectives and goals of WATL are the preservation of the civil jury trial system, the improvement of the administration of justice, the provision of facts and information for legislative action, and the training of lawyers in all fields and phases of advocacy. WATL is devoted to advocating for the rights of the seriously injured in the State of Wisconsin.

WATL seems to be sounding a similar refrain whenever we testify before the Legislature: Proponents of SB 273 have presented no evidence that Wisconsin's existing law governing the posting of a bond in civil cases needs fixing. In other words, there is no demonstrated need for this legislation. If it isn't broke, don't try to fix it!!

The current law already gives the trial court discretion in requiring an appellant to post bond during the pendency of an appeal. The statute § 808.07, Wis. Stat, provides that an appeal does not stay an execution or enforcement of a judgment unless the trial court or appellate court grants such relief. The court may "make *any order* appropriate to preserve the existing state of affairs or the effectiveness of the judgment subsequently to be entered." This already gives

the court great discretion on the amount of any appeal bond and whether one is required. In addition, the determination of the amount of the bond is subject to review by the court of appeals. This bill demonstrates a lack of confidence in the good sense of our Wisconsin judges.

The proponents of the bill have not pointed to any Wisconsin case where a court has abused its discretion in ordering an appeal bond.

The proponents argue this bill would affect a very small number of cases. Then why is it necessary? It appears to be prompted by actions of other courts in other states, in particular, the requirement of an appellant bond on the part of a tobacco company in Illinois. It should be noted that in Illinois the bond is mandatory, not discretionary, as in Wisconsin.

Obviously there will be few cases affected by this bill. More likely than not, it will be a commercial case, not a personal injury case. For example, the State of Wisconsin Investment Board, through its various funds, brought an action against WorldCom and others in Dane County court. The case was removed by the defendants to Federal Court. Had it not been removed to Federal Court and the case prosecuted successfully, WorldCom would be protected by this bill, to the potential detriment of the state.

Finally, the bill purports to provide "protection" against dissipation of assets during appeal. However, there is no means provided by which a judgment creditor could get access to information necessary to invoke the exception. How would a judgment creditor know if a company was dissipating its assets? What would constitute proof of dissipation of assets?

Thank you for allowing me to testify today. If you have any questions, I'd be happy to answer them.

*Wisconsin Coalition
for Civil Justice*

TO: Members, Senate Committee on Judiciary

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

DATE: October 28, 2003

RE: **SUPPORT FOR SENATE BILL 273**

On behalf of the Wisconsin Coalition for Civil Justice (WCCJ), we strongly endorse and respectfully urge your support for SB 273 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.

Senate Bill 273 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**



UNITED ASSOCIATION

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

Martin J. Maddaloni
General President

Thomas H. Parchell
General Secretary-Treasurer

William P. Hite
Assistant General President

Founded 1889

Letters should
be confined to
one subject

UA Local Union:

Subject:

October 28, 2003

To: Senator Zien
Fr: Kevin LaMere
Business Manager
Re: Support for Senate Bill 273

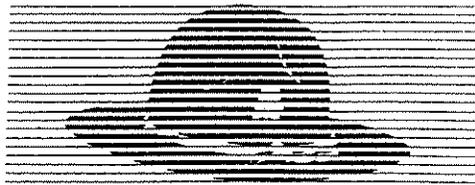
As Business Manager for Steamfitters Local 601, I represent the economic interests of hundreds of working men and women in the greater Milwaukee area. As our livelihoods depend on the financial solvency of the businesses we serve, we strongly urge your support of Senate Bill 273.

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 Senate Bill 273. Thank you for your consideration.

===== Executive Director
===== Casey Perry
===== caseyperry@juno.com



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

=====

October 28, 2003

Chairman Dave Zien
Senate Judiciary Committee Members
P.O. Box 8952
Madison, WI 53708

Dear Chairman Zien and Senate 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 SB 273 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



Proud Member of the National Troopers Coalition

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

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West Allis, WI 53227
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Fax (414) 321-7596

Robert Baird

State Vice-President

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Waukesha, WI 53186
Home Phone (262) 788-0340
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Fax (262) 798-1541
Cell Phone (414) 429-2590
e-mail: exbaird@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) 536-8190
Cell Phone (414) 429-2583
e-mail: drury@twave.net

October 28, 2003

To: Senator Zien
Fr: Rick Gale, President, Professional Firefighters of Wisconsin
Re: Support for Senate Bill 273

On behalf of the Professional Firefighters of Wisconsin, I respectfully ask your consideration of and support for Senate Bill 273.

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 SB 273 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 Senate Bill 273. Thank you.

October 28, 2003

Chairman Dave Zien
Senate Judiciary Committee Members
P.O. Box 8952
Madison, WI 53708

Dear Chairman Zien and Senate Judiciary Committee Members:

On behalf of the fire sprinkler fitters in Wisconsin, we register support for Senate Bill 273.

This legislation will help safeguard the fire sprinkler industry should any of our employers be required to post bond during an appeal of a judgment against it. SB 273 is also important because it helps protect our members' retirement accounts from drastic stock price fluctuations of companies required to post huge appeal bonds.

SB 273 is not just about big businesses. This legislation also helps small businesses that assume risks with their products and services.

Because hundreds of thousands of lives depend every day on fire sprinklers, our industry assumes a tremendous amount of liability. If there was ever a tragic accident where one of our contractors was found liable, a large verdict and associated appeal bond could drive that company out of business.

We strongly believe that injured people should be fully compensated for their injuries. However, protecting the right to a fair appeal without going out of business is just as important. Bond limitations for appeals provide this protection. SB 273 is an important step in ensuring that working men and women are not left without jobs while companies appeal huge verdicts.

The other major reason for our support of SB 273 is that it helps protect the retirement accounts of our members. Our members work hard and look forward to a well deserved retirement. This legislation helps ensure Wisconsin sprinkler fitters have full access to their pensions.

SB 273 is fair and reasonable. It maintains a high level of protection for the injured through a large but limited bond cap while also protecting working families and their ability to retire.

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

Sincerely,

Handwritten signature of Chris Schoenbeck in cursive.

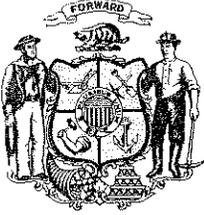
Chris Schoenbeck, Business Manager
Sprinkler Fitters Local 183

Handwritten signature of Jack Neuhauser in cursive.

Jack Neuhauser, Business Agent District 15
Sprinkler Fitters Local 669

Handwritten signature of Daniel Driebel in cursive.

Daniel Driebel, Business Agent District 31
Sprinkler Fitters Local 669



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 reaching 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



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

The Honorable Dave Zien, Chairman
Wisconsin Senate Committee on Judiciary
P.O. Box 8952
Madison, WI 53708

Dear Chairman Zien:

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 Senate Bill 273.

The WPTA supports SB 273 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. SB 273 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 SB 273 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