

2007 DRAFTING REQUEST

Bill

Received: 12/07/2007

Received By: jkuesel

Wanted: Soon

Identical to LRB:

For: Mark Miller (608) 266-9170

By/Representing: Patricia Reardon - Claims Board

This file may be shown to any legislator: NO

Drafter: jkuesel

May Contact: Cari Anne Renlund- DOA

Addl. Drafters:

Subject: State Finance - claims agnst st

Extra Copies: Carrie Anne Renlund - DOA -
Barb Worcester - Sen. Decker'
ofc - 1

Submit via email: YES

Requester's email: Sen.Miller@legis.wisconsin.gov

Carbon copy (CC:) to: CariAnne.Renlund@Wisconsin.gov
barbara.worcester@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Georgia Thompson claim

Instructions:

Per Claims Board recommendation, 12/4/07. Contact authorized by Zac Kramer.

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>
/?	jkuesel 12/17/2007	wjackson 12/17/2007		_____			State
/1			pgreensl 12/18/2007	_____	lparisi 12/18/2007		State
				_____	lparisi 12/18/2007		

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/2	jkuesel 01/06/2008	wjackson 01/07/2008	rschlue 01/07/2008	_____	cduerst 01/07/2008		State
/3	jkuesel 01/16/2008	wjackson 01/16/2008	pgreensl 01/17/2008	_____	sbasford 01/17/2008	sbasford 01/17/2008	

FE Sent For:

at intro
4/18

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-changed to correct address 1-8-08 OD

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			<i>1/17</i>	<i>1/17</i>	lparisi 12/18/2007		

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jkuesel
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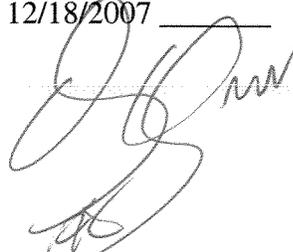
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Extra Copies: **Carrie Anne Renlund - DOA - 1
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1/2/11	jkuesel 12/17/07	1 WJ 12/17	12/18 P8	12/18 P8/115			

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: December 5, 2007

TO: Jeffrey Kuesel
Legislative Reference Bureau

FROM: Patricia A. Reardon
Paralegal

RE: Drafting of Claims Legislation

Attached, please find a copy of the proceedings from the meeting held by the State Claims Board on November 15 and 29, 2007. At that time, the Board recommended that the following claims be paid:

Georgia Thompson

\$228,792.62

The Claims Board members would appreciate it if you would draft the necessary legislation for this claim. Senator Mark Miller and Representative Jeff Stone will sponsor the bill. Thank you for your assistance in this matter.

c: Sen. Miller
Rep. Stone

STATE OF WISCONSIN CLAIMS BOARD

The State of Wisconsin Claims Board convened on November 15, 2007, at the State Capitol Building and on November 29, 2007, at the Department of Administration Building, in Madison, Wisconsin to consider the claim of Georgia Thompson against the State of Wisconsin, Department of Administration.

The Board Finds:

Claim for damages related to defense of federal criminal charges arising from the performance of the claimant's duties as a DOA employee. In January 2006, a federal grand jury indicted the claimant, charging misapplication of funds and theft of honest services. The indictment alleged that the claimant, as a member of the evaluation committee for a state travel procurement, intentionally influenced the vendor selection process for the political advantage of her supervisors and to help her own job security. The claimant plead not guilty and vigorously defended against the charges, but was convicted and sentenced to 18 months in prison with a \$4,000 fine. The claimant began serving her sentence on November 27, 2006. She appealed her conviction and on April 5, 2007, within two hours of hearing oral argument, the Seventh Circuit Court of Appeals reversed her conviction and ordered her acquittal and immediate release from prison that very day. The court's decision makes it clear that the claimant's actions were proper and lawful. The claimant is not able to bring a claim under § 895.46(1) or § 775.05, Stats., but instead makes a claim for reimbursement based on equitable principles, because the criminal charges against her were based on the proper and lawful discharge of her duties as a state employee. The claimant believes that reimbursement of a state employee's legal fees in a case such as this is appropriate and just and is also good public policy. The claimant requests reimbursement for her legal fees, fines, assessments and taxes relating to this claim.

The Department of Administration supports payment of this claim. DOA had no role in the charges brought against the claimant and the claimant is not alleging any negligence on the part of any DOA employee, however, the claim is filed "against" DOA because the charges involved discharge of the claimant's duties as an employee of DOA. At no time during the travel procurement, criminal investigation or trial has DOA alleged that the claimant abused her discretion or acted outside the scope of her employment and DOA promptly re-employed the claimant upon her release from prison. DOA states that the claimant has been and remains a hard-working, respected and dedicated employee. DOA points to the fact that the Seventh Circuit Court of Appeals took the unusual step of calling for her immediate release from prison, noting that the evidence against her was "beyond thin." DOA believes that the claimant has suffered much because of her imprisonment for a crime she did not commit. DOA points to the fact that state employees from all agencies in state government, including the legislature and the court system, routinely exercise discretion in the proper discharge of their duties. DOA does not believe that these employees, acting in good faith and exercising their best judgment based on established law and policy, should work in fear of facing criminal charges for making the "wrong" decision, and when acquitted, not receiving appropriate restitution for the damages they suffer. DOA agrees with the claimant's analysis that relief is not available to her under § 895.46(1) or Chapter 775, Stats., and requests that the Board reimburse the claimant based on equitable principles.

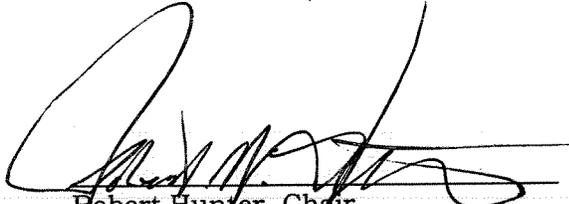
The Board recommends that the legislature direct the Department of Administration to pay Hurley, Burish and Stanton, S.C. directly for defending Ms. Thompson, its employee, against federal criminal charges arising from the performance of her duties as a DOA employee. Wis. Stats. § 895.46(1) requires the state to pay reasonable attorney's fees and costs its employees incur while defending civil and some criminal actions taken against them by virtue of state employment. The Board

concludes that although indemnification of Ms. Thompson in this particular criminal prosecution is not specifically contemplated by § 895.46(1), indemnification of Ms. Thompson furthers the purpose of that statute and is equitable in light of Ms. Thompson's acquittal. The legal fees, fines and assessments incurred in this matter are an obligation of the employer (State of Wisconsin) rather than its employee (Ms. Thompson). Such an indemnification eliminates Ms. Thompson's obligation to pay the fees and costs and therefore creates no tax burden for Ms. Thompson when the State of Wisconsin is instead obligated to pay them directly. Finally, the Board concludes that the attorney's fees incurred in this matter are reasonable and recommends that the Legislature direct the Department of Administration to pay the fees, fines and assessments in full in the amount requested, \$228,792.62. The Board further recommends that payment should be made from the Department of Administration appropriation § 20.505(1)(kf), Stats.

The Board recommends:

Payment of \$228,792.62 be made to Hurley, Burish and Stanton, S.C., by the State of Wisconsin from § 20.505(1)(kf), Stats., for the defense costs, fines and assessments of State of Wisconsin employee Georgia Thompson.

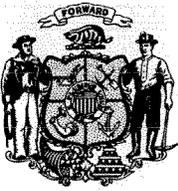
Dated at Madison, Wisconsin this 4TH day of DECEMBER, 2007.


Robert Hunter, Chair
Representative of the Attorney General


Cari Anne Renlund, Secretary
Representative of the Secretary of
Administration


Nate Zolik
Representative of the Governor


Mark Miller
Senate Finance Committee



D N O T E

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3618/7 1

JTK.../.....

WLJ

wanted by Tue 12/18

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen Cat

AN ACT [✓] relating to: expenditure of \$228,792.62 from moneys appropriated to the Department of Administration in payment of a claim against the state made by Hurley, Burish and Stanton, S.C.?

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$228,792.62 from moneys appropriated to the Department of Administration (DOA) for the current fiscal biennium for provision of procurement services to state agencies in payment of a claim against DOA made by Hurley, Burish and Stanton, S.C. The claimant represented Georgia Thompson, an employee of DOA, who was convicted on September 22, 2006, of the federal crimes of misapplication of funds and theft of honest services (18 U.S.C. 666 and 1341). She was fined \$4,000 and sentenced to 18 months in prison. She began serving ^{*} on November 26, 2006, and served until April 5, 2007, when the U.S. Court of Appeals vacated the judgment of conviction and ordered her released. *U.S. v. Thompson*, 484 F. 3d 877 (7th Cir., 2007). The charges against Ms. Thompson resulted from her involvement in a decision to award a state contract for travel services. The claimant represented Ms. Thompson and has billed her for \$228,792.62 for attorney fees, costs, and disbursements incurred in connection with her defense plus the fine of ^{*} \$4,000. On December 4, 2007, the claims board recommended payment of this claim on the basis of equitable principles. The board also recommended that the claim be paid from an appropriation to DOA for provision of procurement services to state agencies. The payment increases procurement costs to state agencies from all ^{*} funding sources. (*Senate Journal*, p. 471).

^{*} her the sentence

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:

SECTION 1. Claim against the state. There is directed to be expended from the appropriation under section 20.505 (1) (kf) of the statutes, as affected by the acts of 2007, \$228,792.62 in payment of a claim against the state made by Hurley, Burish and Stanton, S.C., Madison, Wisconsin, as reimbursement to Georgia Thompson, Waunakee, Wisconsin, for expenses incurred by Ms. Thompson that were billed to her by the claimant. Ms. Thompson is an employee of the Department of Administration ^{and} who was convicted in federal court in 2006 of misapplication of funds and theft of honest services for acts committed in the course of her employment. The conviction was reversed by the U.S Court of Appeals. The expenses include attorney fees, costs, disbursements, and a fine imposed by the federal court. Acceptance of this payment releases this state and its officers, employees, and agents from any further liability to the claimant or to Ms. Thompson resulting from the arrest and conviction of Ms. Thompson for acts committed in the course of her employment in connection with this matter.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3618/1dn

JTK...:/:...

Wij

Senator Miller:

I reviewed the facts of this case with Attorney Carrie Anne Renlund of DOA and obtained some other facts from legal and news sources. Despite the fact that the claims board recommended payment of the claim to Georgia Thompson, Ms. Renlund indicated that the payment should be made to Hurley, Burish and Stanton. According to Ms. Renlund, this procedure eliminates any tax liability on the payment for Ms. Thompson. Ms. Renlund also indicated that the law firm had paid all the expenses, including the \$4,000 fine, and that none of the invoices for these payments has yet been paid by Ms. Thompson. If any of this information is not correct, this draft may need to be redrafted.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3618/1dn
JTK:wlj:pg

December 18, 2007

Senator Miller:

I reviewed the facts of this case with Attorney Carrie Anne Renlund of DOA and obtained some other facts from legal and news sources. Despite the fact that the Claims Board recommended payment of the claim to Georgia Thompson, Ms. Renlund indicated that the payment should be made to Hurley, Burish and Stanton. According to Ms. Renlund, this procedure eliminates any tax liability on the payment for Ms. Thompson. Ms. Renlund also indicated that the law firm had paid all the expenses, including the \$4,000 fine, and that none of the invoices for these payments has yet been paid by Ms. Thompson. If any of this information is not correct, this draft may need to be redrafted.

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

Kuesel, Jeffery

From: Kuesel, Jeffery
Sent: Thursday, December 20, 2007 4:44 PM
To: 'Renlund, Cari Anne - DOA'
Subject: RE: Thompson Bill -- LRB 3618/1

Cari Anne,

As we discussed, I will need to pick up on this on the 2nd, but without specifically studying the wording, my reaction is that to be in accord with the way we have consistently worded other claims bill analyses, we need to reveal the revenue source and if it's dedicated revenue, the fact that this expenditure is in lieu of spending the money for the purposes for which it is set aside under current law. There are numerous examples of similar statements in other claims bill analyses and none has caused controversy as far as I know. Regarding the other changes, I think we can do something along the line you suggest, but I was expecting you to suggest weaving in the word "indemnification". I am open to that if you want.

Jeff Kuesel

From: Renlund, Cari Anne - DOA [mailto:CariAnne.Renlund@Wisconsin.gov]
Sent: Thursday, December 20, 2007 4:29 PM
To: Kuesel, Jeffery
Subject: Thompson Bill -- LRB 3618/1

Hi Jeff,

Thank you for chatting with me today. After we talked, I spoke with more folks in our budget shop. We still think the very last sentence of the Analysis is a conclusion rather than a recitation. We would rather see the last sentence come out and let LFB weigh in on that. Or, in the alternative, we would rather use a different appropriation altogether.

As for changes to the Analysis and the Bill itself, here are my suggestions based on our conversation:

Analysis

In the 7th line from after the word "services" insert ", a decision made during the scope of her employment at DOA."

Bill

Line 4, replace "as reimbursement to" with "for legal defense costs incurred defending State of Wisconsin employee"

Lines 5 and 6, strike "for expenses incurred by Ms. Thompson that were billed to her by the claimant"

Lines 6 and 7, strike "is an employee of the department of administration and"

As discussed, let's touch base on this on January 2, 2008.

Thanks again,

Cari Anne

Cari Anne Renlund

12/28/2007

Chief Legal Counsel
Wisconsin Department of Administration
101 E Wilson Street
10th Floor
Madison WI 53702
608-267-0202
CariAnne.Renlund@Wisconsin.Gov

My email address was recently changed. Please be sure to respond to CariAnne.Renlund@Wisconsin.Gov

Kuesel, Jeffery

From: Renlund, Cari Anne - DOA [CariAnne.Renlund@Wisconsin.gov]
Sent: Thursday, January 03, 2008 3:47 PM
To: Kuesel, Jeffery
Cc: Renlund, Cari Anne - DOA
Subject: RE: Thompson Bill -- LRB 3618/1

Hi Jeff;

Happy New Year! I hope you had a nice holiday.

I agree that we should also weave in the word "indemnification", as that should make the purpose of the payment very clear. The term should probably be used in both the Analysis and the bill, itself. I have some thoughts on where it could be used, but I'm sure you do, too. Do you want to take a crack at it first? Or, would you like me, too? Either way is fine by me.

With regard to the final sentence of the analysis, wouldn't it be accurate to strike that sentence and amend the second-to-last sentence to read:

"The board also recommended that the claim be paid from an appropriation to Department of Administration for the provision of procurement services to state agencies, a program revenue appropriation funded by state agencies from all fund sources."

I think this sentence accomplishes your purpose, i.e., it reveals the revenue source and identifies whether it is dedicated revenue, etc., but it does not make any conclusions about whether the payment will increase costs to state agencies. I still believe that statement is not necessarily accurate and is instead a matter for LFB to consider. A brief review of six other recent bills shows that the analyses all identify the fund source, but none of them make statements about whether the payment results in increased costs. This was not an exhaustive search, of course.

Thank you very much.

Cari Anne

*Cari Anne Renlund
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Wisconsin Department of Administration
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Thanks again,

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CariAnne.Renlund@Wisconsin.Gov*

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01/03/2008

wanted now 1/1

↑ stays

2007 BILL

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Not to indemnify Georgia Thompson, an employee of DOA for costs incurred by the claimant in defending M SOA Thompson

derived derived from all funding source

a program revenue

Not Because under current law DOA may assess state agencies for

and savings and may spend the revenues derived from the assessments without limitation the payment may increase procurement assessments

Duerst, Christina

From: Renlund, Cari Anne - DOA [CariAnne.Renlund@Wisconsin.gov]
To: Duerst, Christina
Sent: Tuesday, January 08, 2008 9:22 AM
Subject: Read: LRB 07-3618/2

Your message

To: Renlund, Cari Anne - DOA
Subject: LRB 07-3618/2
Sent: 1/8/2008 8:42 AM

was read on 1/8/2008 9:22 AM.

Kuesel, Jeffery

From: Kramer, Zac
Sent: Tuesday, January 15, 2008 10:57 AM
To: Kuesel, Jeffery
Subject: Thompson Claim

Attachments: Edits to LRB draft 2.doc

Hey Jeff,
Here are some requested changes to the 2nd Thompson claim bill. These should be the last changes. Let me know if you have any questions



Edits to LRB draft
2.doc (29 K...

Zac Kramer

Office of Senator Mark Miller
State Capitol, Room 409 South
PO Box 7882
Madison, WI 53707
Phone 608.266.9170
Fax 608.266.5087

AN ACT relating to: expenditure of \$228,792.62 from monies appropriated to the Department of Administration in payment of a claim to indemnify Ms. Georgia Thompson, a State of Wisconsin employee.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$228,792.62 from monies appropriated to the Department of Administration (DOA) for provision of procurement services to state agencies for the current fiscal biennium in payment of a claim made against the State by Ms. Georgia Thompson through her attorneys, Hurley, Burish & Stanton, S.C. Ms. Thompson was convicted on June 12, 2006 of the federal crimes of misapplication of funds in the theft of honest services (18 U.S.C. ss. 666 and 1341). She was fined \$4,000, ordered to pay a \$200 special assessment and sentenced to 18 months in prison. She began serving the sentence on November 26, 2006 and served until April 5, 2007, when the U.S. Court of Appeals vacated the judgment of conviction and ordered her released. *U.S. v. Thompson*, 484 F.3d 877 (7th Cir. 2007). The charges against Ms. Thompson resulted from her involvement in a decision made to award a state contract for travel services. Her involvement and the decision regarding the award of a state contract were made within the scope of her employment at DOA. The costs to defend Ms. Thompson total \$228,792.62 and include attorneys' fees, costs, disbursements, fines and a special assessment. On December 4, 2007, the Claims Board recommended that the state indemnify Ms. Thompson and her attorneys, Hurley, Burish & Stanton, S.C., on the basis of equitable principles. The Claims Board determined that the defense costs are an obligation of the state as they were incurred by a state employee while defending actions taken by virtue of her state employment, and that payment of the defense costs furthers the purposes of s. 895.46(1) of the statutes. The Board also recommended that the payment be made from an appropriation to DOA for provision for procurement services to state agencies. The payment may increase procurement costs to state agencies from all funding sources. (Senate Journal, P. 471).

SECTION 1. Claim against the state. The State shall pay Hurley, Burish & Stanton, S.C., Madison, Wisconsin, \$228,792.62 from the appropriation under s. 20.505(1)(kf) of the statutes, as affected by the acts of 2007, to indemnify Department of Administration

employee Georgia Thompson, Madison, Wisconsin, for the costs of defending her in a criminal action taken against her for acts performed during the course of and within the scope of her state employment. Ms. Thompson was convicted in federal court in 2006 of misapplication of funds and theft of honest services relating to her duties as a state employee. The U.S. Court of Appeals later reversed the conviction and entered a judgment of acquittal. Ms. Thompson, through her attorneys, made a claim against the State for indemnification of the defense costs including attorneys' fees, costs, disbursements, a fine and a special assessment totaling \$228,792.62. Acceptance of this payment releases this state and its officers, employees, and agents from any further liability or indemnity to Hurley, Burish & Stanton, S.C. or to Ms. Thompson resulting from the arrest, conviction and subsequent acquittal of Ms. Thompson for acts performed during the scope of her employment in connection with this matter.



Russ Decker
State Senator

Jeff,

we have been talking with Georgia Thompson's legal counsel, & they asked for the changes indicated in the marked-up bill that is attached. We would like their changes addressed.

Please let me know if you have any questions or comments re: the proposed changes. Thank you.

State Capitol, P.O. Box 7882, Madison, WI 53707-7882 • (608) 266-2502
sen.decker@legis.state.wi.us

Recycled paper

Barb Worcester

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January 2, 2008

Senator Russ Decker
Attention Barb Worcester
State Capitol
P.O. Box 7882
Madison, Wisconsin 53707-7882

Re: *Georgia L. Thompson*

Dear Barb:

Thank you for talking with me this morning regarding the draft legislation indemnifying Georgia Thompson. As we discussed, I am providing you with our comments to the legislation, in a format that I hope will be helpful to you and the drafters at the Legislative Reference Bureau. If you should have any questions regarding the same, please let me know.

Cordially,

HURLEY, BURISH & STANTON, S.C.



Marcus J. Berghahn

MJB:mjb

f:\-clients\thompson,georgia\claims board\worchester 080102

enclosure

cc: Georgia Thompson

AN ACT relating to: expenditure of \$228,792.62 from monies appropriated to the Department of Administration in payment of a claim for indemnification against the state made by Georgia Thompson, through her attorneys, Hurley, Burish & Stanton, S.C.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$228,792.62 from monies appropriated to the Department of Administration (DOA) for the current fiscal biennium for provision of procurement services to state agencies in payment of a claim made against DOA made by Georgia Thompson through her attorneys, Hurley, Burish & Stanton, S.C. Georgia Thompson, an employee of DOA, was convicted on June 12, 2006 of the federal crimes of misapplication of funds in the theft of honest services (18 U.S.C. §§ 666 and 1341). She was fined \$4,000, ordered to pay a \$200 special assessment and sentenced to 18 months in prison. She began serving the sentence on November 26, 2006 and served until April 5, 2007, when the U.S. Court of Appeals vacated the judgment of conviction and ordered her released. *U.S. v. Thompson*, 484 F.3d 877 (7th Cir. 2007). The charges against Ms. Thompson resulted from her involvement in a decision to award a state contract for travel services. Her involvement and the decision regarding the award of a state contract was made during the scope of her employment at DOA. Ms. Thompson was represented by Hurley, Burish & Stanton, S.C. Her attorney's fees, costs, disbursements, fines and special assessments amounted to \$228,792.62; all were incurred in connection with her defense. On December 4, 2007, the Claims Board recommended payment of this claim on the basis of equitable principles. The attorney's fees, costs, disbursements, fines and special assessments are an obligation of the state as they were incurred by a state employee while defending actions taken by virtue of her state employment. Payment of the claim furthers the purpose of section 895.46(1) of the statutes. The Board also recommend that the claim be paid from an appropriation to DOA for provision for procurement services to state agencies. The payment increases procurement costs to state agencies from all funding sources. (Senate Journal, P. 471).

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

SECTION 1. Claim against the state. There is directed to be expended from the appropriation under section 20.505 (1) (kf) of the statutes, as affected by the acts 2007, \$228,792.62 in payment of a claim for indemnification against the State made by Georgia Thompson, Madison, Wisconsin, through her attorneys, Hurley, Burish & Stanton, S.C., Madison, Wisconsin, for expenses incurred by Ms. Thompson while defending actions taken by virtue of her state employment. Ms. Thompson was convicted in federal court in 2006 of misapplication of funds and theft of honest services for acts allegedly committed in the course of her employment. The conviction was reversed by the U.S. Court of Appeals which ordered the U.S. District Court to enter a judgement of acquittal. Ms. Thompson's claim for indemnification includes attorneys fees, costs and disbursements. Her claim for indemnification also includes fines and special assessments imposed by the federal court. Acceptance of this payment releases this state and its officers, employees, and agents from any further liability to Ms. Thompson or her attorneys resulting from the arrest and conviction of Ms. Thompson for acts allegedly committed in the course of her employment in connection with this matter.

AN ACT relating to: expenditure of \$228,792.62 from monies appropriated to the Department of Administration in payment of a claim for indemnification against the state made by Georgia Thompson, through her attorneys, Hurley, Burish & Stanton, S.C.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$228,792.62 from monies appropriated to the Department of Administration (DOA) for the current fiscal biennium for provision of procurement services to state agencies in payment of a claim made against DOA made by Georgia Thompson through her attorneys, Hurley, Burish & Stanton, S.C. ~~The claimant represented Georgia Thompson, and employee of DOA, who was convicted on September 22~~ June 12, 2006 of the federal crimes of misapplication of funds in the theft of honest services (18 U.S.C. §§ 666 and 1341). She was fined \$4,000, ordered to pay a \$200 special assessment and sentenced to 18 months in prison. She began serving the sentence on November 26, 2006 and served until April 5, 2007, when the U.S. Court of Appeals vacated the judgment of conviction and ordered her released. *U.S. v. Thompson*, 484 F.3d 877 (7th Cir.; 2007). The charges against Ms. Thompson resulted from her involvement in a decision to award a state contract for travel services. ~~The claimant represented Ms. Thompson and has billed her for \$228,792.62 for attorneys fees, costs, and disbursements~~ Her involvement and the decision regarding the award of a state contract was made during the scope of her employment at DOA. Ms. Thompson was represented by Hurley, Burish & Stanton, S.C. Her attorney's fees, costs, disbursements, fines and special assessments amounted to \$228,792.62; all were incurred in connection with her defense ~~plus the fine of \$4,000~~. On December 4, 2007, the Claims Board recommended payment of this claim on the basis of equitable principles. The attorney's fees, costs, disbursements, fines and special assessments are an obligation of the state as they were incurred by a state employee while defending actions taken by virtue of her state employment. Payment of the claim furthers the purpose of section 895.46(1) of the statutes. The Board also recommend that the claim be paid from an appropriation to DOA for provision for procurement services to state agencies. The payment increases procurement costs to state agencies from all funding sources. (Senate Journal, P. 471).

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

SECTION 1. Claim against the state. There is directed to be expended from the appropriation under §section 20.505 (1) (kf) of the statutes, as affected by the acts 2007, \$228,792.62 in payment of a claim for indemnification against the sState made by Georgia Thompson, Madison, Wisconsin, through her attorneys, Hurley, Burish & Stanton, S.C., Madison, Wisconsin, ~~as reimbursement to Georgia Thompson, Waunakee, Wisconsin~~ for expenses incurred by Ms. Thompson ~~that were billed to~~ while defending actions taken by virtue of her ~~by the claimant~~ state employment. Ms. Thompson ~~is an employee of the Department of Administration and was convicted in federal court in 2006 of misapplication of funds and theft of honest services for acts allegedly committed in the course of her employment. The conviction was reversed by the U.S. Court of Appeals. The expenses included which ordered the U.S. District Court to enter a judgement of acquittal.~~ Ms. Thompson's claim for indemnification includes attorneys fees, costs, ~~disbursements, and a fine and disbursements.~~ Her claim for indemnification also includes fines and special assessments imposed by the Ffederal Ecourt. Acceptance of this payment releases this state and its officers, employees, and agents from any further liability to ~~the claimant or to~~ Ms. Thompson or her attorneys resulting from the arrest and

conviction of Ms. Thompson for acts allegedly committed in the course of her employment in connection with this matter.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3618/Z

JTK:wlj:rs

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stays

wanted THU 1/17

2007 BILL

Regen

1 AN ACT relating to: expenditure of \$228,792.62 from moneys appropriated to the
2 Department of Administration in payment of a claim against the state made by
3 ~~Hurley, Burish and Stanton, S.C.~~ to indemnify Georgia Thompson, a state of Wisconsin employee
through her attorneys, Hurley, Burish and Stanton, S.C.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$228,792.62 from moneys appropriated to the Department of Administration (DOA) for provision of procurement services to state agencies in payment of a claim against DOA made by ~~Hurley, Burish and Stanton, S.C.~~ to indemnify Georgia Thompson, an employee of DOA, for costs incurred by the claimant in defending Ms. Thompson. The claimant represented Georgia Thompson, who was convicted on September 22, 2006, of the federal crimes of misapplication of funds and theft of honest services (18 U.S.C. 666 and 1341), based upon a decision made during the course of her employment at DOA. She was fined \$4,000 and sentenced to 18 months in prison. She began serving the sentence on November 26, 2006, and served until April 5, 2007, when the U.S. Court of Appeals vacated the judgment of conviction and ordered her released. *U.S. v. Thompson*, 484 F. 3d 877 (7th Cir., 2007) The charges against Ms. Thompson resulted from her involvement in the decision to award a state contract for travel services. The claimant has billed Ms. Thompson for \$228,792.62 for attorney fees, costs, and disbursements incurred in connection with her defense plus the fine of \$4,000. On December 4, 2007, the Claims Board recommended payment of this claim on the basis of equitable principles. The board also recommended that the claim be paid from a program revenue appropriation to DOA derived from all funding sources for provision of

June 12, 2006

Ms
A

revenue

BILL

procurement services to state agencies. ~~Because under current law DOA may assess state agencies for procurement costs and savings and may spend the revenues derived from the assessments without limitation, the payment may increase procurement assessments to state agencies.~~ (Senate Journal, p. 471)

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

STATE

from all revenue sources

costs

see

no ital.

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

JWS 2-1 V

1 **SECTION 1. Claim against the state.** There is directed to be expended from
2 the appropriation under section 20.505 (1) (kf) of the statutes, as affected by the acts
3 of 2007, \$228,792.62 in payment of a claim against the state made by Hurley, Burish
4 and Stanton, S.C., Madison, Wisconsin, to indemnify Georgia Thompson, a state of
5 Wisconsin employee, for costs incurred in defending Ms. Thompson. Ms. Thompson
6 was convicted in federal court in 2006 of misapplication of funds and theft of honest
7 services for acts committed in the course of her employment. The conviction was
8 reversed by the U.S. Court of Appeals. The expenses include attorney fees, costs,
9 disbursements, and a fine imposed by the federal court. Acceptance of this payment
10 releases this state and its officers, employees, and agents from any further liability
11 to the claimant or to Ms. Thompson resulting from the arrest and conviction of Ms.
12 Thompson for acts committed in the course of her employment in connection with
13 this matter.

14

(END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3618/3ins
JTK.....

LPS: Please check
spacing.

INS A:

No P She was fined \$4,000, ordered to pay a \$200 special assessment and sentenced to 18 months in prison. She began serving her sentence on November 26, 2006, and served until April 5, 2007, when the U.S. Court of Appeals vacated the judgment of conviction and ordered her released. *U.S. v. Thompson*, 484 F.3d 877 (7th Cir., 2007). The charges against Ms. Thompson resulted from her involvement in a decision to award a state contract for travel services. Her involvement in the decision and the decision regarding the award of the state contract occurred within the scope of her employment at DOA. The costs to defend Ms. Thompson total \$228,792.62 and include attorney fees, costs, disbursements, a fine, and a special assessment. On December 4, 2007, the Claims Board recommended payment of this claim to indemnify Ms. Thompson and her attorneys, Hurley, Burish and Stanton, S.C., on the basis of equitable principles. The board determined that the defense costs are an obligation of the state and the charges against Ms. Thompson arose from the performance of her duties as a DOA employee. The board further determined that payment of the defense costs furthers the purposes of s. 895.46 (1), stats., a law under which the state is responsible for payment of most civil and some criminal defense costs incurred by public employees when they are proceeded against because of acts committed within the scope of employment. (The law is not applicable to this case.)

Wis

INS 2-1:

No P The state shall pay Hurley, Burish and Stanton, S.C., of Madison, Wisconsin, \$228,792.62 from the appropriation under section 20.505 (1) (kf) of the statutes, as affected by the laws of 2007, to indemnify Department of Administration employee Georgia Thompson, Madison, Wisconsin, for the costs of defending her in a criminal action that was filed against her for acts performed during the course of and within the scope of her state employment. Ms. Thompson was convicted in federal court in 2006 of misapplication of funds and theft of honest services relating to her duties as a state employee. The U.S. Court of Appeals later reversed the conviction and entered a judgment of acquittal. Ms. Thompson, through her attorneys, made a claim against the state for indemnification of the defense costs including attorney fees,

costs, disbursements, a fine, and a special assessment totaling \$228,792.62. Acceptance of this payment releases this state and its officers, employees, and agents from any further liability or indemnity to Hurley, Burish and Stanton, S.C. or to Ms. Thompson resulting from the arrest, conviction, and subsequent acquittal of Ms. Thompson for acts performed during the scope of her employment in connection with this matter.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3618/3dn

JTK...|:....

WJ

Senator Miller:

The body of this draft has been revised almost exactly as you suggested. The analysis follows the same outline that you suggested but is reworded slightly to adhere to standard analysis conventions, to track the precise wording of the pertinent Claims Board decision, and to adjust syntax. Please let me know if you have any further concerns regarding this draft.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3618/3dn
JTK:wlj:pg

January 17, 2008

Senator Miller:

The body of this draft has been revised almost exactly as you suggested. The analysis follows the same outline that you suggested but is reworded slightly to adhere to standard analysis conventions, to track the precise wording of the pertinent Claims Board decision, and to adjust syntax. Please let me know if you have any further concerns regarding this draft.

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

Barman, Mike

From: Sen.Miller
Sent: Thursday, January 17, 2008 2:16 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-3618/3 Topic: Georgia Thompson claim

Please Jacket LRB 07-3618/3 for the SENATE.