STATE OF WISCONSIN
Senate Journal
Ninety−Eighth Regular Session

FRIDAY, April 27, 2007

The Chief Clerk makes the following entries under the above date.

CHIEF CLERK'S ENTRIES

SENATE ENROLLED PROPOSALS

The Chief Clerk records:
Senate Bill 55
Senate Joint Resolution 41
Senate Joint Resolution 42
Report correctly enrolled on April 27, 2007.

INTRODUCTION, FIRST READING, AND REFERENCE OF PROPOSALS; REFERENCE OF APPOINTMENTS

Read first time and referred:

Senate Bill 169
Relating to: the regulation of certain structures in navigable waters, granting rule−making authority, and making an appropriation.
By Senators Breske, Kedzie, Darling, Plale and Roessler; cosponsored by Representatives Gunderson, Kleefisch, Kreuser, Albers, Ballweg, Bies, Hahn, Kaufert, Kerkman, LeMahieu, Lothian, Montgomery, Mursau, Musser, Nelson, Nygren, Soletski, Staskunas, Tauchen, Townsend, Vruwink and Vukmir.
To committee on **Environment and Natural Resources**.

Senate Bill 170
Relating to: a notice to parties in civil actions of the Supreme Court rule regarding judicial recusal and regarding access to a statement of economic interests.
By Senators Hansen, Lehman, Taylor and Kreitlow; cosponsored by Representatives Sinicki, Grigsby, Schneider, Travis and Berceau.
To committee on **Campaign Finance Reform, Rural Issues and Information Technology**.

Senate Bill 171
Relating to: public financing of campaigns for the office of justice of the supreme court, making appropriations, and providing penalties.
By Senators Kreitlow, Coggs, Robson, Schultz, Erpenbach, Miller, Risser, Lehman, Lassa, Jauch, Sullivan, Hansen, Vinehout and Wirch; cosponsored by Representatives Hintz, Musser, Pocan, Kreuser, Boyle, Sheridan, Travis, Mason, Hraychuck, Cullen, Shilling, Benedict, Jorgensen, Schneider, Sinicki and Berceau.
To committee on **Campaign Finance Reform, Rural Issues and Information Technology**.

PETITIONS AND COMMUNICATIONS

State of Wisconsin
Claims Board

February 15, 2007

The Honorable, The Senate:

Enclosed is the report of the State Claims Board covering the claims heard on December 13, 2006 and February 2, 2007.

The amounts recommended for payment under $5,000 on claims included in this report have, under the provisions of s. 16.007, Stats., been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over $5,000, if any, and will submit such to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature.

Sincerely,
JOHN E. ROTHSCHILD
Secretary

STATE OF WISCONSIN CLAIMS BOARD

The State of Wisconsin Claims Board conducted hearings at the State Capitol Building in Madison, Wisconsin, on December 13, 2006, upon the following claims:

Claimant	Agency	Amount
1. Anthony T. Hicks	Innocent Convict (§ 775.05, Wis. Stats.)	$131,061.71
2. Paul W. Barrows	University of Wisconsin	$124,521.48+

The following claims were considered and decided without hearings:

Claimant	Agency	Amount
3. Tracy L. Delrow	Oconto County District Attorney's Office	$790.50
4. Ronald A. Keith, Sr.	Department of Health & Family Services	$2,900.00
5. Milwaukee Wave, LLC	Department of Revenue	$12,000.00

6. Laura A. Outland−Symicek Department of Revenue $2,635.20

7. Gordon Ray Department of Administration $50.00

8. Daniel F. Salopek Department of Commerce $3,006.10

The Board Finds:

1. Anthony T. Hicks of Houston, Texas claims $131,061.71 for compensation of an innocent convict pursuant to §775.05, Wis. Stats. In December 1991, the claimant was wrongfully convicted of robbery, burglary and sexual assault and sentenced to 19 years in prison. He served 4.5 years before he was exonerated by DNA evidence. In November 1990 the victim was sexually assaulted and robbed in her apartment after allowing a black male to come in to use her telephone. The claimant lived in the same apartment complex as the victim and when he was arrested for an unrelated offense, a clerical employee at the police station believed he resembled the composite sketch of the attacker. The victim picked him out of a lineup, even though the claimant lacked a cleft chin, the one defining facial feature of her attacker which she recalled.

At trial, the state provided testimony that a microscopic examination of hairs found on the scene showed that they were "consistent" with samples provided by the claimant. This sort of microscopic hair comparison has since been resoundingly discredited. The claimant's trial counsel failed to inform him of the possibility of DNA testing, which was relatively new at the time, and failed to order such testing. The trial counsel also failed to secure the testimony of an alibi witness, a co−worker of the claimant, who would have testified that he was on the phone with the claimant at about the same time the assault was taking place and that the claimant was perfectly calm and collected. The claimant retained Steve Hurley to pursue post−conviction relief. Mr. Hurley obtained DNA testing of the hair evidence and the results excluded the claimant as the source of that hair. Mr. Hurley moved for a new trial, which was ultimately granted by the Wisconsin Supreme Court. The claimant was released on bail and Mr. Hurley pursued additional DNA testing on hair samples from the crime scene. This additional round of testing even more conclusively excluded the claimant as the source of the hairs. Exclusion of this evidence left only the eyewitness testimony of the victim. Eyewitness testimony, especially that involving cross−racial identification has been shown to be unreliable. Faced with the new DNA evidence and given the unreliability of the victim's identification of the claimant, the state chose not to retry the claimant and all charges against him were dismissed.

The claimant has suffered significant financial losses due to his wrongful imprisonment. Although the claimant did pursue legal action against his trial attorney, who was found to be negligent, the eventual settlement that proceeded from that action was based upon the attorney's very limited ability to pay. The claimant requests compensation in the full statutorily allowed amount of $25,000. The claimant also requests reimbursement for the significant legal fees he has incurred to prove his innocence in the amount of $106,061.71.

The Dane County District Attorney's Office does not dispute the facts of this claim as presented by the claimant. Since the claimant's conviction microscopic hair analysis has been wholly discredited and the strength of eyewitness testimony has been generally undermined. In addition, there is the compelling DNA evidence excluding the claimant as the source of the hairs found at the scene. The State concludes that, were they presented with all the facts of this case today, the claimant never would have been charged. The State therefore does not hesitate to recommend approval of this claim.

The Board concludes the claim should be paid in the amount of $25,000, plus attorney's fees in the reduced amount of $53,060.86, for a total award of $78,030.86. The Board further concludes, under authority of § 16.007 (6m), Stats., that payment should be made from the Claims Board appropriation § 20.505 (4)(d), Stats.

2. Paul W. Barrows of Madison, Wisconsin claims $124,521.48+ for value of sick time and leave time, as well as lost pay. The claimant has been employed by the UW since 1989 and was appointed as Vice Chancellor of Student Affairs in 2000. The claimant states that in November 2004, the Chancellor unexpectedly informed him that that he had to step down as Vice Chancellor and should start looking for another job. The claimant states that the Chancellor placed him on indefinite leave without pay and told him that he could use sick, vacation and annual leave account time in order to have an income while he was on leave. The claimant states that he was forced to use 524 hours of sick leave, which had a value of $96,237.84. The claimant states that he was also forced to use 186 hours of vacation and 124 hours from his Annual Leave Reserve Account. The claimant places the value of this used leave time at $28,283.64. The claimant asserts that he was forced to stay on leave by the Chancellor despite his requests to be allowed to return to work. The claimant states that he did look for other employment during this time and that he received an offer from Hunter College in NY. The claimant states that he asked the Chancellor if he would be willing to make an offer to match the Hunter College position and that the Chancellor offered him a consultant position with a $150,000 salary. The claimant states that he declined the Hunter College job in reliance of this offer. In June 2005, the claimant received a letter from the Chancellor indicating that the claimant would not be allowed to begin the consultant position because of sexual harassment allegations, which were later proven false. Instead of being given the promised consultant position, the claimant was placed in a position with a salary of $72,881, resulting in a $211.28 per day loss of income, for which the claimant also requests reimbursement.

The University of Wisconsin recommends denial of this claim. In late 2003, the claimant commenced a sexual relationship with a graduate student. Believing this showed very poor judgment, the Chancellor asked the claimant to step down as Vice Chancellor in early November 2004. The claimant used sick and vacation leave to continue to receive wages at the Vice Chancellor rate until June 2005, when he was placed into an academic staff back up position with a pay rate of $72,881. The claimant cites no law or theory as to why he should be reimbursed for his leave time. This matter has been the subject of legal action in which the claimant has not prevailed. After media revelations about the claimant's sick leave use, the claimant met with the Chancellor and denied any inappropriate behavior towards female students or subordinates, assuring the Chancellor that there were no other women who could make complaints about him. Several days later the Chancellor learned of an additional inappropriate relationship with a female student, which the claimant did not deny. He concluded that the claimant had lied and rescinded his offer of the consultant position. The UW points to the fact that this was always an "at will" position, which could be terminated at any time without cause and that the claimant therefore has no right to the position. The UW also points to the fact that at the time they first discussed the Hunter College offer, the claimant indicated that he had no intention of taking the Hunter College job, because he did not want to move to NY and because he was

expecting a better offer from the University of Texas, which never materialized.

At the hearing on the claim, the claimant asserted that he was entitled to compensation based upon the doctrine of promissory estoppel in that the claimant had declined the job offer at Hunter College based upon the offer of a $150,000 a year consultant position with the UW, which he was never given. The UW asserted that the doctrine of promissory estoppel does not apply and that the position offer was an "at will" position.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles. [Member Hunter not participating.]

3. Tracy L. Delrow of New London, Wisconsin claims $790.50 for unpaid wages allegedly lost due the to failure of the Oconto County District Attorney to pursue wage claim in a timely fashion. In March 2004 the claimant filed a claim with the Department of Workforce Development for unpaid wages from January 2004. DWD forwarded the claim to the Oconto County District Attorney's Office with the request that he proceed against the company in question pursuant to § 109.09, Stats. The claimant states that he spoke to someone in the DA's office in April 2004 and was told that it would take a year to because wage claims were a low priority. The claimant states that he called the DA's office again in August 2005 and was told that it would take two years and not to call for a while. The claimant states that he contacted the DA's office again in March 2006 and was told that the statute of limitations had run out and that they could therefore not pursue his claim. The claimant states that the DA's office made no attempt to contact him until one day before the statute of limitations ran out and that, although they were not able to reach him at that time, even if they had reached him, there would have been insufficient time to prepare the claim in one day. The claimant believes that the Oconto County DA was negligent in the handling of his wage claim and requests reimbursement for his lost wages.

The Oconto County District Attorney recommends denial of this claim. The claimant's wage claim was received by the DA's office on May 13, 2004, with a statute of limitations of March 16, 2006. The DA states that, although he does not recall the exact conversations with the claimant, he has no doubt that he told him that wage claims were not a priority and that he would have to wait. The DA states that he attempted to locate the claimant on March 15, 2006, one day before the statute of limitations, however he was unable to reach the claimant at the phone number provided because the claimant had apparently moved. The DA did not have any other contact information for the claimant and therefore closed the file. The claimant called the DA's office in April 2006 and the DA informed him that the statute of limitations had expired. The DA believes that it was the claimant's responsibility to notify the office of his new contact information and that it was the claimant's failure to do so that resulted in the claim not meeting the statute of limitations deadline.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles. [Member Lazich dissenting.]

4. Ronald A. Keith, Sr. of Winnebago, Wisconsin claims $2,900.00 for the amount of a loan to purchase a computer and related equipment and software. The claimant was a patient at a mental health facility pursuant to involuntary commitment. In 1995, the claimant took out a student loan to take college courses. He states that $2,800 of that loan was used to purchase a computer and related computer equipment and software for his classes. In 1997, before the claimant had an opportunity to complete his coursework, the Department of Health and Family Services confiscated his computer, along with the computers of other patients, alleging that they had been used to create gang−related material. The claimant states that DHFS later admitted that no gang−related material was found on any of the seized computers. The claimant alleges that DHFS verbally agreed to reimbursement him for the cost of the computer and related software and equipment. The claimant states that he is still expected to pay back the loan, even though he no longer has his computer. The claimant states that he did not file an action under § 51.61(7)(a), Stats., protesting the seizure of the computer because he was busy with his coursework, and because he and other patients were being represented through a class action and he was therefore not able to proceed with an additional pro se action. He requests reimbursement for the cost of the computer loan.

The Department of Health and Family Services recommends denial of this claim. DHFS states that the seizure of the computers was a legitimate government action, which has been adjudicated through the appropriate grievance procedure. DHFS points to the fact that the claimant could have filed an action in circuit court pursuant to § 51.61(7)(a), Stats., but chose not to do so. DHFS further points to the fact that the claimant is certainly familiar with this process, having filed over 100 separate court actions against various state agencies and employees since 1994. DHFS contacted UW Superior, through which the claimant conducted his coursework. UW Superior stated that loans are used first for tuition, fees, books, room and board (if applicable). If there are any remaining monies, those monies are remitted to the student and could at that time be used for a purchase such as a computer. DHFS states that, according to UW Superior's records, the claimant's 1997 tuition fees and books totaled $1,421.50. UW Superior can find no record of any check issued to the claimant for any remaining money. Finally, DHFS points to the fact that the claimant has not provided any documentation showing the actual purchase of a computer, the date of the purchase and/or the cost.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

5. Milwaukee Wave, LLC of Milwaukee, Wisconsin claims $12,000.00 for refund of late fees, interest and penalties related to late filed sales tax returns. The claimant states that in May 2004, its new Chief Operating Officer discovered incomplete and inaccurate accounting records, as well as sales tax returns that had not been filed. He hired a new accountant and accounting firm, which had to reconstruct the company's financial records. The claimant states that this process took 8 months to complete. Following the reconstruction of these records, a change in company ownership took place by a legal process that took several months, during which some company activity was frozen. The claimant states that the sales tax returns were completed as soon as possible after the changes in the ownership, management and accounting services took place. The claimant states that its sales taxes are all current and are now being made by monthly electronic payments. Because of the extenuating circumstances, the claimant is requesting reimbursement of 50% of the late fees, interest and penalties that were paid in association with the late filed returns.

The Department of Revenue recommends denial of this claim. DOR states that late filing fees and negligence penalties are

imposed on untimely returns unless the taxpayer shows that the late filing was due to reasonable cause and not due to neglect. Examples of reasonable cause would be disastrous occurrences such as death, flood, fire, and so forth. DOR strongly believes that, in the absence of such reasonable cause, these penalties should remain. DOR points to the fact that many of the tax periods relating to this claim remain open for the claimant to claim a refund of the fees and penalties directly from DOR. DOR therefore recommends that the board deny the portion of the claim relating to periods not open to adjustment. DOR further recommends that the Claims Board deny the portion of the claim relating to periods that are still open to adjustment and states that DOR will refund to the claimant 50 % of the negligence penalties paid for those periods still open to adjustment.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

6. Laura A. Symicek (formerly Outland) claims $2,635.20 for tax refunds which were applied to delinquent taxes. The claimant married Virgil Outland in January 1995. The claimant states that Mr. Outland ran his own business and that she was a full time mom. The claimant alleges that Mr. Outland was very controlling and abusive during the marriage and that he controlled the finances and would not let her deal with any tax issues. The claimant states that she discovered that Mr. Outland had sexually assaulted her daughter over a period of 3 years and she immediately filed for divorce. Mr. Outland pled guilty and was sentenced to 19 years in prison in July 2003. The claimant states that as soon as Mr. Outland was removed from her home, she filed the missing returns and applied for Innocent Spouse Relief, which was granted. However, several tax refunds, which had been applied towards the unpaid taxes, were not refunded. The claimant states that she has worked very hard to rebuild her life and requests refund of those returns.

The Department of Revenue recommends denial of this claim. § 71.10(6), Stats., provides that an innocent spouse may be relieved of liability for taxes unpaid on the effective date of the statute, which is July 27, 2005. DOR records indicate that in 2003 the taxpayers jointly filed returns for 2000−2002. All three returns resulted in refunds, which were applied to the delinquent taxes, with the exception of a small portion of the 2002 refund. In 2005, DOR granted the claimant innocent spouse relief for the remaining unpaid debts for 1996, 1997 and 1999 in the amount of $13,046.84. DOR states that the refunds the claimant is requesting were intercepted prior to the claimant obtaining innocent spouse relief and prior to July 27, 2005. These refunds therefore have not been returned because they do not qualify as taxes that "remain unpaid" as of the effective date of the innocent spouse statute.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

7. Gordon Ray of Madison, Wisconsin claims $50.00 for insurance deductible paid after destruction of his cell phone. In February 2006, the claimant, a Capitol Police Officer, responded to a call for a broken water pipe in the Capitol Building. The claimant states that his personal cell phone fell off his belt into the water and was destroyed while he was attempting to shut off the water flow. The cost to replace the phone was a $50 deductible, for which the claimant requests reimbursement.

The Department of Administration recommends denial of this claim because it does not believe the state was in any way negligent in this matter. The department does not dispute the facts as presented by the claimant and does not object should the Claims Board decide to approve the claim based on equitable grounds.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles. [Member Rothschild not participating.]

8. Daniel F. Salopek of Sister Bay, Wisconsin claims $3,006.10 for the cost of three months of health insurance. The claimant is employed by the Department of Commerce. In March 2005, he underwent hip replacement surgery and suffered complications, which resulted in an extended medical leave. The claimant was cleared by his doctor to return to work on October 3, 2005. The claimant states that on October 3, 2005, he was contacted by his supervisor and Human Resources and was told that he could not return to work until additional clarification of his work abilities was received from his physician. The claimant states that he was told this would only take a few days. The claimant points to the fact that the department did not contact his physician in writing until October 31st. The claimant states that the department did not allow him to return to work until January 3, 2006. The claimant denies that he refused to return to work from December 20th until after the holidays, but states that Human Resources had told his union steward that he should delay until January 3rd because his income continuation had been paid out until that date. Because of the delay, the claimant was required to pay the full cost of three months of health insurance in the amount of $3,171.10. Because of his ongoing medical needs, the claimant had no choice but to pay the full cost of the insurance, but made the payments under protest. The claimant states that his insurance costs normally would have been $165 for that three month period. The claimant alleges that he was assured by his union steward that he would be reimbursed at a later date. The claimant does not believe that he should be held responsible for delays caused by the department's inadequate pursuit of the additional clarification, or by his physician's slow response.

The Department of Commerce recommends denial of this claim. On September 28, 2005, the department received recommendations from the claimant's physician regarding his return to work restrictions. The department states that some of the restrictions noted by the physician were unclear and, rather than risk the claimant's recovery, the department notified him not to return to work on October 3rd until the physician clarified his recommendations. A department Human Resource Specialist called the physician on October 7th and discussed with him the need for additional clarification before the claimant could return to work. Having not received the requested clarification in response to this call, the department wrote the physician on October 31st, again requesting the information and pointing out that the claimant's return to work was being delayed until the clarification was received. The department received a November 2nd letter from the physician giving some additional clarification but stating that a more thorough assessment of the claimant's abilities was to be completed in on month's time, after which the physician would be able to make a more complete recommendation regarding the claimant's work restrictions. On December 12th the department received the additional recommendations from the physician. The department attempted to reach the claimant by phone and then contacted him by letter approving his return to work on December 20th. On December 27th, the department

received a letter from the claimant stating that he would not return to work until January 3, 2006. The department believes that it adequately pursued the additional information and expressed the urgency of the situation to the physician and therefore should not be held responsible for the physician's delayed response to the departments requests. The department also believes it was the claimant's choice to delay his return to work from December 20th to January 3rd.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

The Board concludes:

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

Paul W. Barrows
Tracy L. Delrow
Ronald A. Keith, Sr.
Milwaukee Wave, LLC
Laura A. Symicek
Gordon Ray
Daniel F. Salopek

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

Anthony T. Hicks	$78,030.86	§ 20.505 (4)(d), Wis. Stats.

Dated at Madison, Wisconsin this 27th day of December, 2006.

Robert Hunter
Chair, Representative of the Attorney General

John E. Rothschild
Secretary, Representative of the Secretary of Administration

Nate Zolik
Representative of the Governor

Mary Lazich
Senate Finance Committee

Dan Meyer
Assembly Finance Committee

STATE OF WISCONSIN CLAIMS BOARD

The State of Wisconsin Claims Board conducted hearings at the State Capitol Building in Madison, Wisconsin, on December 13, 2006, upon the following claims:

Claimant	Agency	Amount
Richard A. Moeck	Innocent Convict (§ 775.05, Wis. Stats.)	$40,975.00

The Board Finds:

The Claims Board referred this claim to a hearing examiner on December 9, 2005. A hearing was held before Administrative Law Judge Peter C. Anderson of the Division of Hearings and Appeals on June 21, 2006. Judge Anderson has submitted to the Claims Board a Proposed Decision. The Board concludes that the attached Proposed Decision should be adopted as the decision of the Claims Board and that the claim of Richard A. Moeck should be denied.

Dated at Madison, Wisconsin this 27th day of December, 2006.

Robert Hunter
Chair, Representative of the Attorney General

John E. Rothschild
Secretary, Representative of the Secretary of Administration

Nate Zolik
Representative of the Governor

Mary Lazich
Senate Finance Committee

Dan Meyer
Assembly Finance Committee

STATE OF WISCONSIN CLAIMS BOARD

The State of Wisconsin Claims Board held a meeting at the State Capitol Building in Madison, Wisconsin, on February 2, 2007, upon the following items, which were considered and decided without a hearing:

Consideration of a Petition for Rehearing dated January 17, 2007, in the matter of the attorneys' fees portion of the claim of Anthony Hicks, which was decided by the Claims Board on December 13, 2006.

Consideration of a request for partial payment of attorneys' fees while the decision on the Petition for Rehearing is pending.

Background:

This Petition for Rehearing arises from an innocent convict claim filed under §775.05, Wis. Stats. The claimant's original claim for compensation was filed on November 26, 1997. At that time, the claim was placed in abeyance pending the resolution of a lawsuit against the claimant's trial attorney until the lawsuit was settled in December 2004. Additional documentation was requested from the claimant and that information was submitted in November 2005. Pursuant to standard procedure, the claim was forwarded to the original prosecutor, who responded in support of the claim. The claim was scheduled for hearing before the Board on December 13, 2006. At that meeting the Board voted unanimously to pay the claimant $25,000 compensation for his wrongful imprisonment, plus attorneys' fees in the reduced amount of $53,030.86. (Reduced from the requested amount of $106,061.71.)

On January 17, 2007, the claimant filed a Petition for Rehearing of the Claims Board Decision specifically relating to the matter of attorneys' fees. The claimant also submitted additional information supporting his claim for attorneys' fees. The claimant returned the original check and requested separate payment of the uncontested portion of the claim not relating to attorneys' fees and a new check was issued in the amount of $25,000. Subsequently, the claimant also requested payment of the $53,030.86 in attorneys' fees awarded by the December 2006 decision while the question of the remaining attorneys' fees was under consideration.

The Board Concludes:

The Board concludes that it shall vacate the portion of its December 13, 2006, decision relating to attorneys' fees for Mr. Hicks' claim and grant the claimant's Petition for Rehearing on the attorneys' fees portion of the claim.

The Board further concludes that the claim shall be referred to the Division of Hearings and Appeals for consideration by a Hearing Examiner of the attorneys' fees portion of the claim to

issue a Proposed Decision for consideration by the Claims Board.

The Board further requests that when considering the issue of the award of attorneys' fees the Hearing Examiner address the following questions:

1. Does the limit on compensation to be paid by the board under § 775.05(4) include any amount to which the board finds the petitioner is entitled for attorneys fees, costs and disbursements?

2. Does § 227.485, Stats., § 814.245(5)(a)2, Stats., or any other statute limit the amount of attorneys' fees which may be granted under § 775.05, Stats?

3. Should the Petitioner be permitted to submit additional evidence or information related to attorneys' fees which was not presented with the original claim?

4. Does the fact that the Petitioner received a settlement from his original attorney in an amount which is unknown to the board affect the appropriate award of attorneys' fees?

5. Does the board have discretion to determine the appropriate attorneys' fees awarded?

6. If attorneys' fees should be awarded, what are the appropriate attorney's fees which should be awarded:

a. for the post conviction defense of the Petitioner?

b. for the preparation and presentation of the claim before the Claims Board?

Dated at Madison, Wisconsin this 14th day of February, 2007.

Robert Hunter
Chair, Representative of the Attorney General

John E. Rothschild
Secretary, Representative of the Secretary of Administration

Nate Zolik
Representative of the Governor

Jeffrey Stone
Assembly Finance Committee

Senator Decker did not participate in this meeting.

Pursuant to Senate Rule 17 (5), Senator Darling added as a coauthor of **Senate Bill 164**.

ADVICE AND CONSENT OF THE SENATE

State of Wisconsin
Office of the Governor

April 24, 2007

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint O'KEEFE, JAMES, of Mauston, as a member of the Rural Health Development Council, to serve for the term ending July 1, 2011.

Respectfully submitted,
JIM DOYLE
Governor

Read and referred to committee on **Campaign Finance Reform, Rural Issues and Information Technology.**

REFERRALS AND RECEIPT OF COMMITTEE REPORTS CONCERNING PROPOSED ADMINISTRATIVE RULES

Senate Clearinghouse Rule 06−103
Relating to specific information signs.
Submitted by Department of Transportation.
Report received from Agency, April 26, 2007.
Referred to committee on **Transportation, Tourism and Insurance,** April 27, 2007.

Senate Clearinghouse Rule 07−022
Relating to the county veterans service officer grant program.
Submitted by Department of Veterans Affairs.
Report received from Agency, April 27, 2007.
Referred to committee on **Veterans and Military Affairs, Biotechnology and Financial Institutions,** April 27, 2007.