



## Legislative Fiscal Bureau

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January 30, 2008

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 402: Claim for Legal Services Costs of Georgia Thompson

Senate Bill 402 would require the Department of Administration (DOA) to make a payment of \$228,792.62 to Hurley, Burish and Stanton, S.C. of Madison on behalf of Georgia Thompson from the agency's procurement services appropriation [s. 20.505(1)(kf) of the statutes]. On January 18, 2008, the bill was introduced and referred to the Joint Committee on Finance.

### **BACKGROUND**

In January, 2006, a federal grand jury indicted Ms. Thompson for misapplication of funds and mail fraud related to her duties in the DOA's Bureau of Procurement. Ms. Thompson, allegedly, had intentionally influenced the selection of a travel vendor. Subsequent to trial in federal court, Ms. Thompson was convicted and sentenced to 18 months in prison and fined \$4,000. She began serving her sentence on November 27, 2006. Her case was appealed and on April 5, 2007, the U.S. Court of Appeals reversed the conviction and ordered her immediate release.

On June 13, 2007, Ms. Thompson filed for reimbursement of her out-of-pocket expenses related to her criminal prosecution in federal court. The following table shows the amounts of her request.

## **Reimbursement Requested by Georgia Thompson**

<u>Purpose</u>	<u>Amount</u>
Legal Fees of Hurley, Burish and Stanton	\$206,121.25
Taxes Due for Attorney Reimbursements	130,255.00
Costs and Disbursement	14,471.37
Fines	4,000.00
Preparation of Claim	4,000.00
Assessments	<u>200.00</u>
 Total	 \$359,047.62

In November, 2007, the Claims Board convened on two occasions to consider the Thompson claim. The Board recommended the drafting of legislation that would direct DOA to pay Hurley, Burish, and Stanton S.C. directly for defending Ms. Thompson against federal charges arising from the performance of her duties as a DOA employee. The Claims Board cited s. 895.46(1) of the statutes [relating to payment of judgments against state officers]. The Board concluded that, "although indemnification of Ms. Thompson is not specifically contemplated by s. 895.46(1), indemnification of Ms. Thompson furthers the purpose of that statute and is equitable in light of Ms. Thompson's acquittal." The Board further recommended that the state should make the payment directly to the attorneys, rather than Ms. Thompson and "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."

### **SUMMARY OF BILL**

Senate Bill 402 requires the state to make a payment of \$228,792.62 to Hurley, Burish, and Stanton S.C. of Madison from DOA's procurement services appropriation [s. 20.505(1)(kf) of the statutes]. The bill would specify that this payment is made on behalf of Georgia Thompson 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 employment.

The bill would further specify that the acceptance of this payment releases the 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 case.

### **FISCAL EFFECT**

The bill would require DOA to make a payment of \$228,792.62 to Hurley, Burish, and Stanton S.C. of Madison from DOA's PR-continuing procurement services appropriation [s. 20.505(1)(kf) of the statutes]. This appropriation is used to support DOA's Bureau of Procurement

expenses relating to procurement of materials, supplies, services, equipment, and capital property. Ms. Thompson's salary and fringe benefits were supported from this appropriation prior to her conviction. This appropriation had a balance of \$1,380,300 PR at the end of the 2006-07 fiscal year. The Department estimates that assessments (revenues) minus expenditures for 2007-08 would leave a balance of \$1,031,300 PR. This bill would reduce that estimated balance to \$802,500 PR.

The reimbursement under the bill would include \$4,000 for fines and \$200 for court assessments issued to Ms. Thompson upon her conviction. If the Committee approves this bill, it may wish to request that DOA seek reimbursement to the state for these fines and assessments from the federal court based upon Ms. Thompson's ultimate acquittal.

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