



1997 ASSEMBLY BILL 973

May 13, 1998 - Introduced by COMMITTEE ON RULES, by request of Representative Ladwig. Referred to Committee on Ways and Means.

1 **AN ACT relating to:** the expenditure of. \$1,277,306 from the transportation fund
2 for payment of a claim against the state made by James Cape and Sons
3 Company.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$1,277,306, from the transportation fund in payment of a claim made by James Cape and Sons Company against the department of transportation (DOT). In 1992 and 1993, the claimant performed work for DOT under contract for highway improvements at the intersection of I 94 and STH 156 in Kenosha County. At the request of DOT, the claimant performed additional work and incurred related costs that were not contemplated by its contract.

4 The claimant alleges that these costs were necessitated by delays, design
5 errors, inconsistent direction and premature suspension of part of its work by DOT,
6 which delayed its anticipated completion dates for parts of the project. The costs
7 included \$956,363 in direct costs for pavement spread loss and cold weather
8 protection, extended equipment costs, additional mobilization costs and dirt
9 rehandling, \$125,984 in overhead costs, together with \$194,959 for the estimated
10 costs of preparing this claim, additional bonding costs and profit on all costs except
11 bonding costs (total = \$1,277,306). As of May 5, 1998, neither DOT nor the claims
12 board has made any recommendation with respect to this claim.

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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:

1 **SECTION 1. Claim against the state.** There is directed to be expended from
2 the appropriation account under section 20.395 (3) (bq), (br) or (bx), or any
3 combination thereof, as determined by the department of transportation, \$1,277,306
4 in payment of a claim against the state made by James Cape and Sons Company,
5 Racine, Wisconsin, to compensate it for the costs of additional work and related costs
6 that were not contemplated under its contract with the department of transportation
7 in connection with improvements to I 94 and STH 165 in Kenosha County in 1992
8 and 1993. Acceptance of this payment operates as a full and complete release to this
9 state and its officers, employes and agents from any further liability to the claimant
10 resulting from the performance of this work.

11 (END)