

Eighty-Ninth Regular Session

WEDNESDAY, April 18, 1990

The chief clerk makes the following entries under the above date.

PETITIONS AND COMMUNICATIONS

State of Wisconsin
Office of the Secretary of State
April 16, 1990

To the Honorable the Senate

I have the honor to transmit to you the following information pursuant to s. 13.685(7).

If you have any questions concerning this transmittal, please contact (608) 266-5503.

NEWLY REGISTERED LOBBYISTS AND THEIR PRINCIPALS:

Timothy D. Lawless April 10, 1990, %Metro. Milw. Assn. of Commerce, 756 N. Milwaukee St., Milwaukee WI 53202; (414)273-3000.

1) Metropolitan Milwaukee Assn. of Commerce
Mary Ellen Powers; 756 N. Milwaukee St., Milwaukee WI 53202; (414)273-3000.

Subjects: Issues of interest to the metropolitan Milwaukee business community.

J. Sheehan Donoghue April 10, 1990, 11 N. Wisconsin St., Elkhorn WI 53121; (414)723-3220.

1) Joseph Entertainment Group, Inc. Joseph A. Balistrieri; 620 N. Broadway, Ste. 201, Milwaukee WI 53202; (414)276-3300.

Subjects: Any function or activity of any branch, department, or phase of federal, state or local government, environment, agriculture, Department of Natural Resources, zoning taxation, regulation of business, finance or insurance, or other topics pertaining to the general public health or welfare.

TERMINATION OF LOBBYIST LICENSES:

James Baxter terminated as of April 9, 1990 for Seatbelt Freedom of Choice.

Anthony H. Driessen terminated as of April 12, 1990 for Michael J. Le Clair.

John N. Forde terminated as of April 10, 1990 for Metropolitan Milwaukee Assn. of Commerce.

Richard B. Gochnauer terminated as of April 9, 1990 for Eli Lilly & Co.

H. E. Halverson terminated as of April 10, 1990 for Pewaukee, Town of.

Gervase A. Hephner terminated as of April 10, 1990 for Pewaukee, Town of.

TERMINATION OF PRINCIPALS:

Michael J. Le Clair terminated as of April 12, 1990.

Sincerely,
DOUGLAS LAFOLLETTE

Secretary of State
State of Wisconsin
Judicial Commission

March 30, 1990

To the Honorable the Legislature:

Please accept the 1989 annual report of the Wisconsin Judicial Commission, which is hereby submitted to you in accord with s. 757.97, Stats.

Sincerely,
ADRIAN P. S'HOONE
Chairperson

State of Wisconsin
Department of Health and Social Services
April 12, 1990

To the Honorable the Legislature:

Pursuant to the requirements of section 153.10(1), Wis. Stats., I am pleased to submit to the Senate the third quarterly Health Care Data Report. Like earlier quarterly reports, this report includes data based on hospital inpatient discharges reported to the Office of Health Care Information (OHC1) by all operating general medical-surgical and specialty hospitals in Wisconsin for the third quarter of 1989 (July - September 1989).

This report fulfills the statutory requirement to report "in a manner that permits comparisons among hospitals...the charges for up to 100 health care services or diagnostic-related groups selected by the office." The report goes beyond the statutory requirements by presenting several analyses of the Wisconsin hospital picture by distribution of patient discharges based on age, sex, source of hospital reimbursement and length of stay. The average charges per patient discharged by diagnostic-related group (DRG) are also compared by health service area and by hospital volume group.

Printed copies of this report are available from the office. Please contact OHC1 should any members of the Senate or your staff have any questions. Our office stands ready to assist you in any way possible. I

Sincerely,
R. NICHOLAS TRANE II
Director
State of Wisconsin
Claims Board

April 11, 1990

To the Honorable the Senate

Enclosed is the report of the State Claims Board covering claims heard on April 3, 1990.

The amounts recommended for payment under \$2000 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$2,000, 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,
 EDWARD D. MAIN
 Secretary

STATE OF WISCONSIN
 CLAIMS BOARD

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin on April 3, 1990, upon the following claims:

Claimant	Amount
Robert Winkler	1,655.92

In addition, the following claims were considered and decided without hearings:

Ellen's on Grandview	8,000.00
State Farm Insurance	303.24
Leroy Olson	200.00
Larry Buller	140.00
Kewaskum Frozen Foods, Inc.	210.00
Econo-Print, Inc.	2,248.94

THE BOARD FINDS:

1. Robert Winkler of West Bend, Wisconsin, claims \$1,655.92 for damages to his vehicle allegedly incurred when it was stolen by an unknown person from the University of Wisconsin-Milwaukee parking lot between September 20, and 21 1989. When the vehicle was recovered by the Milwaukee Police Department, the steering column and trunk lid were damaged and the tires, rims and contents of the trunk had been stolen. Claimant alleges the University was negligent in failing to provide adequate security to prevent his loss. The parking lot in which claimant left his vehicle was a metered lot, not attended by University personnel and the University claimed no responsibility for claimant's vehicle. 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 not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

2. Ellen's on Grandview of Waukesha, Wisconsin, claims \$8,000.00 for loss of profits allegedly caused by the University of Wisconsin's breach of contract in 1987. In March, 1986, claimant entered into a contract with the University of Wisconsin to provide manual food service for the University of Wisconsin Center-Waukesha. The contract was extended through December 31, 1987. Claimant alleges that the University of Wisconsin breached its agreement with claimant by entering into an agreement with a third party to supply manual food service for the Madrigal Christmas Concert in

December, 1987. The Board concludes the claim should more appropriately be dealt with in court and therefore, denies payment of this claim so this matter may be litigated in court.

3. State Farm Insurance of Eau Claire, Wisconsin, claims \$303.24 for subrogation damages. Claimant's insured, Barbara Ryan, submitted a claim to the insurance company for damages to her vehicle allegedly caused by a resident of the Northern Wisconsin Center on March 14, 1989. The insurance company reimbursed its insured \$303.24 for the damages. Consistent with the long-standing policy of this Board concerning subrogation claims, the Board concludes the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

4. LeRoy Olson of Lake Geneva, Wisconsin, claims \$200.00 for the replacement cost of his jacket allegedly damaged while he was entering the Waukesha State Office Building on December 19, 1989. Claimant alleges that the metal latch strike on the door frame ripped a hole in the sleeve of his coat. 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 not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

5. Larry Buller of Stoughton, Wisconsin, claims \$140.00 for the replacement cost of his eyeglasses allegedly damaged on May 17, 1989, while he was assisting a fellow State Capitol Police Officer in the arrest of a suspect for operating a vehicle while intoxicated. The suspect resisted arrest and during the process of trying to gain control of the suspect, claimant's eyeglasses were knocked off his face and damaged beyond repair. The Board concludes the claim should be paid, based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats., payment should be made from the Department of Administration appropriation s. 20.505(5)(ka), Stats.

6. Kewaskum Frozen Foods, Inc. of Kewaskum, Wisconsin, claims \$210.00 for the cost of killing and freezing 14 hogs which were condemned by the Department of Agriculture, Trade and Consumer Protection (DATCP) on July 27, 1989. The hogs were owned by West Bend Elevator and slaughtered by claimant. Four or five of the hogs showed central nervous system problems on the ante-mortem inspection. Because the DATCP inspector did not separate the live hogs until a veterinarian determined which hogs should be condemned, all of the carcasses had to be condemned rather than just the four or five that showed signs of disease before slaughter. The Board concludes the claim should be paid based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats., payment should be made from the Department of Agriculture, Trade and Consumer Protection appropriation s. 20.115(1)(g), Stats.

7. Econo-Print, Inc. of Madison, Wisconsin claims \$2,248.94 for refund of sales taxes erroneously paid from 1984 through 1987, to two of its suppliers, who in turn remitted these sales taxes to the Department of Revenue. During a Department of Revenue sales and use tax audit of claimant's 1984-1987 returns, it was discovered that claimant inadvertently paid sales taxes on purchases from two companies. The purchases were exempt from Wisconsin sales and use tax under Wisconsin's manufacturing exemption. At the time of the audit, the taxes could only be refunded to whoever remitted the taxes. Therefore, the Department of Revenue auditor advised claimant to request the suppliers to file refund claims in order to pass the refund on to claimant for the sales taxes incorrectly paid. Claimant was unable to locate one of the suppliers and the other supplier has gone out of business. In August, 1989, the Wisconsin Court of Appeals in Dairyland Harvestore, Inc. and Badgerland Harvestore Systems, Inc. v. Wisconsin Department of Revenue, held that customers, as well as retailers, can file claims with the Department of Revenue for refund of sales tax paid. However, the field audit is now final, and claimant can no longer amend its 1984 through 1987 sales and use tax returns pursuant to s. 77.59(2), Stats. The Board concludes the claim should be paid in the reduced amount of \$2,000.00, based on equitable principles. The Board further concludes under authority of s. 16.0076(6m), Stats., payment should be made from the Claims Board appropriation s. 20.505(4)(d), Stats. (Member Wilker not participating).

THE BOARD CONCLUDES:

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

- Robert Winkler
- Ellen's on Grandview
- State Farm Insurance
- LeRoy Olson

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

Larry Buller	\$140.00
Kewaskum Frozen Foods	\$210.00
Econo-Print, Inc.	\$2,000.00

Dated at Madison, Wisconsin this 9th day of April, 1990.

GARY R. GEORGE
Senate Finance Committee

DAVID TRAVIS
Assembly Finance Committee

RAYMOND P. TAFFORA
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of Administration

WILLIAM H. WILKER
Representative of Attorney General

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor

April 12, 1990

To the Honorable, the Senate:

The following bills, originating in the senate, have been approved, signed and deposited in the office of the Secretary of State:

Senate Bill	Act No.	Date Approved
142-----	209-----	April 12, 1990
235-----	210-----	April 12, 1990
241-----	211-----	April 12, 1990
253-----	212-----	April 12, 1990
274-----	213-----	April 12, 1990
288-----	214-----	April 12, 1990
386-----	215-----	April 12, 1990
399-----	216-----	April 12, 1990
441-----	217-----	April 12, 1990

Respectfully,
TOMMY G. THOMPSON
Governor

State of Wisconsin
Office of the Governor

April 12, 1990

To the Honorable, the Senate:

The following bills, originating in the senate, have been approved, signed and deposited in the office of the Secretary of State:

Senate Bill	Act No.	Date Approved
60-----	228-----	April 12, 1990
191-----	229-----	April 12, 1990
195-----	230-----	April 12, 1990
267-----	231-----	April 12, 1990
296-----	232-----	April 12, 1990
328-----	233-----	April 12, 1990
388-----	234-----	April 12, 1990
429-----	235-----	April 12, 1990
436-----	236-----	April 12, 1990
446(partially vetoed)-----	237-----	April 12, 1990

Respectfully,
TOMMY G. THOMPSON
Governor

State of Wisconsin
Office of the Governor

April 12, 1990

To the Honorable, the Senate:

I have approved **Senate Bill 446** as 1989 Wisconsin Act 237 authorizes the Department of Development to

participate in the National Trust for Historic Preservation's heritage tourism program in the event that Wisconsin is selected by the National Trust for Historic Preservation as one of four states for participation in the program.

Senate Bill 446 also contains a provision requiring approval by the Joint Committee on Finance prior to expending the funds and hiring the staff authorized in the bill to administer the program. I am vetoing this provision because it jeopardizes Wisconsin's participation in the program by delaying the execution of the contract with the National Trust for Historic Preservation beyond the deadline set by the National Trust for Historic Preservation.

I am pleased to announce that Wisconsin has been selected by the National Trust for Historic Preservation for participation in the heritage tourism program. My veto will enable DOD to initiate the administration of the program immediately.

Respectfully,
TOMMY G. THOMPSON
Governor

State of Wisconsin
Office of the Governor

April 16, 1990

To the Honorable, the Senate:

I am vetoing **Senate Bill 220** in its entirety, as the bill does not make an appropriation and therefore may not be approved in part.

Senate Bill 220 proposes changes in the membership and responsibilities of the Mississippi River Parkway Planning Commission, the interstate agency charged with promoting the development of the Great River Road in Wisconsin.

I am vetoing the bill due to my concerns with the changes to the membership of the Commission. The bill would add two legislators to the Commission, one member of each house appointed by the Governor from a list submitted by the President of the Senate and the Speaker of the Assembly. While I do not object to the inclusion of legislators on this commission, I am concerned that legislative involvement will not be assured on a bi-partisan basis. I would prefer to have two legislators from each house, one appointed by the minority leader, the other appointed by the majority party leader. This will ensure bi-partisan involvement and representation.

In the past I have proposed to move the Parkway Commission to a new Department of Arts and Tourism. I would continue to support this change as well. The Commission's shifting duties - I support the bill's inclusion of "maintenance and promotion" to the existing duties of the Commission - could help serve the efforts of the State of Wisconsin to promote tourism in the state's southwestern and western regions. Placing this Commission under the umbrella agency serving all of

the state's arts and tourism needs would be a positive step for these areas of the state.

Respectfully,
TOMMY G. THOMPSON
Governor

State of Wisconsin
Office of the Governor

April 16, 1990

To the Honorable, the Senate:

I am vetoing **Senate Bill 103** in its entirety. This bill would change the period of time a plaintiff has after filing a summons and complaint in a civil action to serve a copy of that summons and complaint on a defendant from 60 to 120 days.

I am vetoing this bill because I believe allowing an additional 60 days to serve a defendant in a civil action may needlessly delay the action, particularly in cases where the extra time is not necessary. Further, while this additional 60 days may assist those few plaintiffs serving defendants out-of-state, it is simply not necessary for the vast majority of civil actions commenced in Wisconsin's courts.

I would be in favor of legislation permitting a judge to extend the 60 day requirement in cases where the plaintiff shows cause for such an extension. I urge legislators to consider such legislation in the next session.

Respectfully,
TOMMY G. THOMPSON
Governor

SENATE CLEARINGHOUSE ORDERS

Senate Clearinghouse Rule 90-18

Relating to accounting for investment income in the common stock fund, removing obsolete language and amending a notice requirement.

Submitted by Department of Employee Trust Funds.

Report received from agency, April 11, 1990.

Referred to committee on Housing, Government Operations and Cultural Affairs, April 18, 1990.

Senate Clearinghouse Rule 90-19

Relating to the assumptions used when calculating the amount of a retirement or disability benefit which is based in part on assumptions regarding a participant's social security coverage and earnings record.

Submitted by Department of Employee Trust Funds.

Report received from agency, April 11, 1990.

Referred to committee on Housing, Government Operations and Cultural Affairs, April 18, 1990.

Senate Clearinghouse Rule 90-31

Relating to immunization of school children against measles.

Submitted by Department of Health and Social Services.

Report received from agency, April 11, 1990.

Referred to committee on Agriculture, Corrections, Health and Human Services, April 18, 1990.

Senate Clearinghouse Rule 90-47

Relating to the Wisconsin health care liability insurance plan, the patients compensation fund and the patients compensation fund peer review council and to hearings conducted by the office of the commissioner of insurance.

Submitted by Office of the Commissioner of Insurance.

Report received from agency, April 12, 1990.

Referred to committee on Labor, Business, Insurance, Veterans' and Military Affairs, April 18, 1990.

Senate Clearinghouse Rule 86-151

Relating to the option in computing the sales factor used in determining franchise or income tax liability.

Submitted by Department of Revenue.

Withdrawn by agency, April 18, 1990.

The committee on Judiciary and Consumer Affairs reports and recommends:

Senate Clearinghouse Rule 89-130

Relating to sale of art prints and other works of multiple art.

Modification recommended:

Ayes, 5 -- Senators Adelman, Feingold, Chvala, Stitt and Buettner;

Noes, 0 -- None.

Lynn S. Adelman
Chair

Read and referred to joint committee for Review of Administrative Rules.

The committee on Transportation, Conservation and Mining reports and recommends:

Senate Clearinghouse Rule 89-171

Relating to fish refuges.

No action taken.

Senate Clearinghouse Rule 89-207

Relating to the local high-cost bridge program.

No action taken.

Lloyd Kincaid
Chair

CHIEF CLERK'S REPORT

The chief clerk records:

Senate Bill 142.

Senate Bill 235.

Senate Bill 241.

Senate Bill 253.

Senate Bill 274.

Senate Bill 288.

Senate Bill 386.

Senate Bill 399.

Senate Bill 441.

Senate Bill 60.

Senate Bill 191.

Senate Bill 195.

Senate Bill 267.

Senate Bill 296.

Senate Bill 328.

Senate Bill 388.

Senate Bill 429.

Senate Bill 436.

Senate Bill 446.

Correctly enrolled and presented to the Governor on April 11, 1990.

CHIEF CLERK'S REPORT

The chief clerk records:

Senate Bill 103.

Senate Bill 220.

Correctly enrolled and presented to the Governor on April 16, 1990.

CHIEF CLERK'S REPORT

The chief clerk records:

Senate Bill 189.

Senate Bill 355.

Senate Bill 415.

Senate Bill 459.

Senate Bill 402.

Senate Bill 462.

Correctly enrolled and presented to the Governor on April 17, 1990.