



Testimony In Favor of Assembly Bill 773

Assembly Committee on Judiciary

January 4, 2018

Thank you Chair Ott and members of the Assembly Committee on Judiciary for hearing my testimony. A modernization of Wisconsin's civil justice system to address excessive transactional costs and ensure fairness for all parties is overdue. Assembly Bill 773 (AB 773) contains a series of common-sense reforms that will do just that.

Wisconsin Manufacturers & Commerce (WMC) is the state chamber of commerce and largest general business association in Wisconsin. We were founded over 100 years ago, and are proud to represent approximately 3,800 member companies of all sizes, and from every sector of our economy. Our mission is to make Wisconsin the most competitive state in the nation in which to do business.

In many respects Wisconsin is a national model in how to improve a state's business climate. Because of the hard work this body has done, CEO Magazine has ranked Wisconsin's business climate the 10th best in the nation. However, one area where Wisconsin has stagnated is its litigation climate. A large reason for this stagnation is because of the drastic increases in transactional costs due to the increased retention of data that has come along with modern technology. The U.S. Chamber of Commerce's 2017 Lawsuit Climate Survey ranked Wisconsin 20th in the nation for litigation climate, down from 15th in the nation in 2012. In a recent survey conducted by the U.S. Chamber of Commerce, 85 percent of corporate attorneys believe the state's litigation environment will affect where their companies choose to locate and do business. This negative perception can be reversed with this bill's common-sense reforms that modernize Wisconsin's civil justice process.

- First, AB 773 aligns Wisconsin's rules on civil procedure for discovery with its federal counterparts ensuring the certainty and predictability in the law. In addition this bill adds a few additional reforms including the ability to stay discovery pending decisions on dispositive motions to resolve the lawsuit. A stay of discovery pending a court's ruling on dispositive motions is important because these motions can change the scope of the suit or stop it completely.

- Second, AB 773 would make Wisconsin the 49th state to federalize our state class action rules, which have not been substantially updated since the 19th century. Beyond the federalization, the bill would notably allow for an interlocutory appeal of class certification orders for all parties. Allowing both plaintiffs and defendants to have a right to an interlocutory appeal, instead of having to wait until the end of the lawsuit to appeal the certification, will make these actions run far more efficiently. Fifteen other states have a right to interlocutory appeal in their class action laws.
- Third, AB 773 protects consumers from predatory consumer lawsuit lending practices. Consumer lawsuit lending is when a lender provides money to a consumer for purposes other than financing the litigation. This bill protects consumers by requiring a series of disclosures, prohibiting the lender from making decisions in the lawsuit, capping the interest rate and annual fees at 18 percent and \$360 respectively, and requiring the disclosure of the loan to other parties in the suit.
- Fourth, AB 773 takes a step forward in easing compliance costs for businesses being audited by private third-party audit firms looking for unclaimed property by banning the state from engaging in contingency fee contracts with these firms. The ban eliminates the perverse incentive for audit firms to be overly aggressive in their search for unclaimed property. The state would still be able to hire third-party firms using different fee structures.
- Fifth, AB 773 revises Wisconsin's "default" statute of limitations for miscellaneous claims to three years. This default provides ample time for plaintiffs to initiate a lawsuit, while reducing the burdens for the state and private parties for investigating stale claims.
- Sixth, AB 773 changes the interest rates relating to the timely payment of insurance claims. The rate would be revised from 12 percent to prime plus one percent, which would mirror interest rates on general judgments and allow the rates to self-adjust consistent with markets.

In conclusion, while each of the six main sections of the bill touch different portions of Wisconsin's civil justice process, they all work towards the common goal of increasing certainty, reducing costs, and promoting fairness for all parties. Thank you again Chair Ott and committee members for taking the time to hear this testimony. I urge you to support this legislation.