

a higher total rate of general property tax for all state purposes for the fiscal year ending June 30, 1954, than 9.94 mills, or a higher total rate of general property tax for all state purposes for the fiscal year ending June 30, 1955, than 9.15 mills.

Sec. 4. Extra Session Laws 1951, Chapter 4, is hereby repealed.

Approved April 24, 1953.

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CHAPTER 749—S. F. No. 4

[Coded]

*An act relating to adjudication of tort and contract claims against the state.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [3.41] **Definitions.** Subdivision 1. **Terms.** For the purposes of this act the terms defined in subdivisions 2 to 7 have the meanings ascribed to them.

Subd. 2. **Commission.** "Commission" means the state claims commission established by section 3.

Subd. 3. **Claim.** "Claim" means a claim authorized to be heard by the commission in accordance with this act.

Subd. 4. **Approved claim.** "Approved claim" means a claim found by the commission to be one that should be paid under the provisions of this act.

Subd. 5. **Award.** "Award" means the amount recommended by the commission to be paid in satisfaction of an approved claim.

Subd. 6. **Clerk.** "Clerk" means the clerk of the state claims commission.

Subd. 7. **State agency.** "State agency" means a state department, board, commission, institution, or administrative agency of the state government; but does not include any political or local subdivision of the state regardless of any state aid that might be provided.

Sec. 2. [3.42] **Controversies arising out of state's contracts.** Subdivision 1. **State's waiver of immunity from suit.** When a controversy arises out of any contract entered into by any state agency through established procedure in respect to which a person would be entitled to bring suit against the state, if the state were suable, where no claim has been

made against it, the state hereby waives immunity from suit in connection with such controversy. The state hereby confers jurisdiction on the district courts of the state to hear and determine any such controversy.

**Subd. 2. Commencement of action.** No action shall be maintained under subdivision 1 unless commenced within six months after the work provided for in the contract is completed. The action shall be commenced by filing a complaint with the clerk of the court and serving the summons and a copy of the complaint upon the attorney general.

**Subd. 3. Actions, jurisdiction of district courts.** Any such action may be brought in the district court of the county in which one or more of the plaintiffs reside, in the district court of the county where a major portion of the contract is performed, or in the district court of Ramsey county.

**Subd. 4. Answer, service of.** In any such action the state shall have 40 days from the date of the service of the summons and complaint upon it in which to serve its answer in the action upon the plaintiff.

**Subd. 5. Procedure in courts.** Every such action shall proceed in the district court as other actions at law.

**Subd. 6. Appeals to supreme court.** An appeal may be taken to the state supreme court from any final order or judgment in any such action as in an appeal in an ordinary civil action.

**Sec. 3. [3.43] State Claims Commission.** There is hereby created a State Claims Commission which shall be a special instrumentality of the legislature for the purpose of considering claims against the state which may not be heard in a court of law or equity as authorized in section 2. The Commission may act on such claims only as prescribed in this act. The commission is not vested with, and may not exercise, the judicial power of the state in the sense of the Constitution of the State of Minnesota, Article 6. A determination by the commission is not subject to appeal to, or review by, any court created by, or pursuant to, said Article 6. The commission shall consist of five commissioners, two to be selected by the Committee on Committees of the Senate, and two to be named by the Speaker of the House, these four to name a fifth member. The commissioners may be retired district court judges or retired Supreme Court justices who may be paid for their services as herein provided notwithstanding any retirement compensation or retirement restrictions. The terms of the commissioners shall be from the date of their appoint-

ment and shall expire with the adjournment sine die of the next regular session of the legislature. Remaining members of the commission shall fill any vacancies that occur when the legislature is not in session. An appointment to fill a vacancy shall be for the unexpired term. The commission shall select one of its members as chairman. No member of the legislature shall be eligible for appointment to the commission during the term for which he was elected.

**Sec. 4. [3.44] Director of research as clerk of commission.** The director of research of the Legislature Research Committee shall act as clerk for the commission. He shall have custody of all records and proceedings of the court, shall attend meetings and hearing of the commission, may administer oaths and affirmations, and shall issue all official summons, orders, statements, and awards.

**Sec. 5. [3.45] Meetings.** The commission shall hold at least four meetings between the close of each biennial legislative session and the commencement of the next ensuing biennial legislative session. The dates for these meetings shall be determined by the commission by its permanent rules. If one week prior to the date of any such meeting, not more than ten claims are ready for hearing or consideration, the clerk, with the approval of the chairman, may notify the members that the commission will not hold the meeting. So far as possible the commission shall not conclude any such meeting until all claims then upon its docket and ready for hearing or consideration are disposed of. At the request of the chairman the clerk may call a special meeting whenever the number of claims awaiting consideration or any other matter of official business makes such a meeting advisable.

**Sec. 6. [3.46] Offices.** The regular meeting place of the commission shall be at the state capitol and the department of administration shall provide adequate quarters therefor. In order to facilitate the full hearing of claims arising elsewhere in the state the commission may hold meetings at any county seat.

**Sec. 7. [3.47] Salaries, expenses.** Each member of the commission shall receive actual expenses incurred in the performance of his duties. Members shall receive \$20 for each day actually served, except that members if retired district court judges or retired Supreme Court justices shall receive one-half the per diem compensation provided for other members. Days served include time spent in the hearing of claims, the consideration of the records and the preparation of opinions, but shall not exceed 150 days of each year during the two-year period between the sine die adjournment of the regular

sessions of the state legislature. Each requisition for traveling expenses shall be accompanied by a sworn itemized statement which shall be filed with the state auditor and preserved as a public record.

Sec. 8. [3.48] **Oaths.** Before entering upon the duties of his office, the member of the commission appointed by the governor shall take and subscribe to the oath prescribed by the Constitution of the State of Minnesota, which oath shall be filed with the clerk.

Sec. 9. [3.49] **Interest in claim, effect.** No member of the commission shall hear or participate in the consideration of a claim in which he has a personal interest.

Sec. 10. [3.50] **Attorney general, duties.** The attorney general shall represent the interests of the state in all claims coming before the commission.

Sec. 11. [3.51] **Consideration of claims.** In accordance with this act, the commission shall consider claims which, but for some statutory restrictions, inhibitions, or limitations, could be maintained in the courts of the state. No liability is imposed upon the state or any of its agencies by a determination of the commission approving a claim and recommending an award unless the legislature has previously made an appropriation for the payment of a claim subject only to the determination of the commission. The commission shall consider claims in accordance with sections 14 to 20.

Except as provided in section 16, a claim shall be instituted by the filing of a written notice with the clerk. Each claim shall be considered by not less than three members of the commission. After consideration, if the commission finds that the claim is just and proper, it shall so determine and shall file with the clerk a brief statement of its reasons. If the determination of the commission is not unanimous, the reasons of each dissenting member of the commission shall be separately stated. A claim so filed is an approved claim. The commission shall determine the amount that should be paid to the claimant, and shall itemize this amount as an award, with the reasons therefor, in its statement filed with the clerk. In determining the amount of a claim, interest shall not be allowed unless the claim is based upon a contract which specifically provides for the payment of interest.

Sec. 12. [3.52] **Jurisdiction.** Except for the claims excluded by section 13, the jurisdiction of the commission shall extend to the following matters:

(1) Claims and demands against the state or any of its agencies, which the state in its sovereign capacity should in equity and good conscience discharge and pay.

(2) Claims and demands which may be asserted in the nature of set-off or counterclaim on the part of the state or any of its agencies.

(3) The status of any claim referred to the commission by the head of a state agency for an advisory determination.

Sec. 13. [3.53] **Exceptions to jurisdiction.** Unless specifically referred to it by the legislature the jurisdiction of the commission shall not extend to any claim:

(1) For loss, damage, or destruction of property or for injury or death incurred by a member of the militia or national guard while in the service of the state.

(2) For loss, damage, or destruction of property or for injury or death incurred by any person because of wild animals.

(3) For injury to or death of an inmate of a state penal institution.

(4) Arising out of the care or treatment of a person in a state institution.

(5) Arising out of any contract to which the provisions of Minnesota Statutes, Section 161.03, Subdivisions 17 to 20, apply.

(6) For a disability or death benefit under Minnesota Statutes, Chapter 176.

(7) For unemployment compensation under Minnesota Statutes, Chapter 268.

(8) For relief or public assistance under Minnesota Statutes, Chapter 256.

(9) With respect to which a proceeding may be maintained by or on behalf of the claimant in the courts of the state.

Sec. 14. [3.54] **Rules of procedure.** The commission shall adopt rules of procedure governing proceedings before it and may amend such rules. The rules shall be designed to assure a simple, expeditious, and inexpensive consideration of claims. The commission shall adopt rules pertaining to persons appearing as representatives of claimants and may amend such rules. The rules shall permit a claimant to appear in his own behalf or present his claim through a qualified representative. A representative shall be a person who is competent to present and protect the interests of the client. Under its rules the commission shall not be bound by the usual common law or statutory rules of evidence. It may accept and weigh, in accordance with its evidential value, any information that will assist it in determining the factual basis of the claim.

Sec. 15. [3.55] **Procedure for consideration of claims.** The procedure for the consideration of claims shall be substantially as follows:

(1) The claimant shall give written notice to the clerk that he desires to maintain a claim. The notice shall sufficiently identify the claimant, state the circumstances giving rise to the claim, and the state agency concerned.

(2) The clerk shall transmit a copy of the notice to the state agency concerned. If the commission finds that a claim is *prima facie within its jurisdiction*, it shall order the claim to be placed upon its regular docket for hearing.

(3) The commission shall so conduct the hearing as to disclose all material facts and issues of liability. Any member of the commission may examine or cross-examine witnesses. The commission may call witnesses or require evidence not produced by the parties, may stipulate the questions to be argued by the parties, and may continue the hearing to permit a more complete presentation of the claim.

(4) After the close of the hearing the commission shall consider the claim and shall make a determination thereof within 30 days, if possible.

When a claim does not arise under an appropriation for the current fiscal year, the amount claimed does not exceed \$1,000, the state agency concerned concurs in the claim, and the attorney general approves it as a claim which, in view of the purposes of this act, should be paid, the commission shall consider the claim informally upon the record submitted. The state agency concerned shall prepare the record of the claim to the extent required by the rules of the commission, and this record shall be filed with the clerk. If the commission determines that the claim should be entered as an approved claim and an award made, it shall so order and shall file its statement with the clerk. If the commission finds that the claim should not be paid, it shall reject the claim.

Sec. 16 [3.56] **State agencies may refer claims for advisory determination.** The governor or the head of a state agency may refer a claim against the state or a state agency to the commission for an advisory determination. The procedure shall be substantially as follows:

(1) The record of the claim, including a full statement of the facts, the contention of claimant, and such other materials as the rules of the commission require, shall be filed with the clerk. The record shall submit specific questions for the commission's consideration.

(2) The clerk shall examine the record and determine whether it is adequate or inadequate under the rules. If he determines that the record is inadequate he shall refer it back to the officer submitting it with the request that it be altered so as to be adequate under the rules. If he determines that the record is adequate he shall place the same on a special docket.

(3) When the claim is reached on the special docket, it shall be considered informally and without hearing. After consideration the commission shall prepare a brief opinion for the information and guidance of the officer submitting the claim. No claimant may appear in connection with the consideration of any such claim.

(4) The opinion shall be filed with the clerk and a copy thereof transmitted to the officer who referred the claim.

An advisory determination does not bar a subsequent consideration of the claim if it is properly submitted by or on behalf of a claimant.

**Sec. 17. [3.57] Claims arising under legislative appropriations.** A claim arising under an appropriation made by the legislature during the fiscal year to which the appropriation applies may be submitted by:

(1) A claimant whose claim has been rejected by the state agency concerned or by the state auditor.

(2) The head of the state agency concerned in order to obtain a determination of the matters in the issue.

(3) The state auditor in order to obtain a full hearing and consideration of the merits.

If the commission finds that the claimant should be paid, it shall certify the approved claim and award to the head of the state agency, the state auditor, and the governor. The governor may thereupon instruct the auditor to issue his warrant in payment of the award and to charge the amount thereof to the proper appropriation. The auditor shall forthwith notify the state agency that the claim has been paid.

**Sec. 18. [3.58] Appropriation for payment of claims.** Whenever the legislature makes an appropriation for the payment of claims against the state then accrued or arising during the ensuing biennium, determination of claims and payment thereof may be made in accordance with this section, but this section applies only if the legislature, in making its appropriation, specifically so provides.

The claim shall be considered and determined, and the amount of the award fixed, by the commission. The clerk shall

certify each approved claim and award to the governor and shall issue his requisition to the auditor who shall issue his warrant to the treasurer in favor of the claimant.

**Sec. 19. [3.59] Claims barred by statutes of limitation.** The commission shall not take jurisdiction over a claim which would have been barred by existing statutes of limitation operating against said claim if not brought against the State of Minnesota. No such claim as shall have arisen prior to the effective date of the act shall be barred if the claimant proves to the satisfaction of the commission that he has been prevented or restricted from presenting such claim for good cause, provided, however, that no claim that has been rejected by the legislature shall be considered by the commission whether it has arisen prior or subsequent to the effective date of this act unless referred to the commission by the legislature.

**Sec. 20. [3.60] Witnesses testamentary powers.** In all hearings and proceedings before the commission the evidence of witnesses and the production of documentary evidence may be required by issuance of subpoenas. Such subpoenas may be issued by the commission for the appearance at any designated place of hearing. In case of disobedience to a subpoena or other summons the commission may invoke the aid of any district court in requiring the evidence and testimony of witnesses and the production of documentary evidence. Upon proper showing the district court shall issue an order requiring witnesses to appear before the commission, produce documentary evidence, and give testimony touching the matter in question. A person failing to obey the order may be punished by the district court as for contempt.

**Sec. 21. [3.61] List of awards certified to commissioner of Administration.** On or before the first day of October preceding the convening of the legislature, the clerk shall certify to the commissioner of administration a list of all awards recommended by the commission to the legislature for appropriation. The commissioner of administration shall include all awards so certified in the budget estimates submitted to the governor-elect immediately after his election.

**Sec. 22. [3.62] Complete record of each claim preserved.** The complete record of each claim considered by the commission shall be preserved by the clerk and shall be made available to the legislature, or any committee thereof, for the re-examination of the claim.

**Sec. 23. [3.63] Official reporter.** The clerk is the official reporter of the commission. He prepares the approved claims, awards, and statements for publication and submission to the legislature in the form of a biennial report.

Claims and awards shall be separately classified as follows:

(1) The approved claims and awards not satisfied but referred to the legislature for final consideration and appropriation.

(2) Approved claims and awards satisfied by payments out of regular appropriations for the biennium.

(3) Approved claims and awards satisfied by payment out of a special appropriation made by the legislature to pay claims arising during the biennium.

(4) Claims rejected by the commission, with the reasons therefor.

(5) Advisory determinations and opinions made at the request of the governor or the head of a state agency.

The commission may include other information or recommendations pertaining to the performance of its duties. The commission shall transmit its biennial report to the governor and a copy thereof to the presiding officer of each house of the legislature. The biennial reports of the commission shall be published by the clerk as a public document.

Sec. 24. [3.64] **False or fraudulent claims.** A person who knowingly and wilfully presents, or attempts to present, a false or fraudulent claim; or a state officer who knowingly and wilfully participates, or assists, in the preparation or presentation of a false or fraudulent claim is guilty of a misdemeanor. If a person convicted of such offense is a state officer, he also forfeits his office.

Sec. 25. **Appropriation.** There is hereby appropriated from the general revenue fund out of funds not otherwise appropriated the sum of \$15,000 to carry out the purposes of this act. All payments are to be certified on vouchers to the state auditor by the clerk for payment as provided by law.

Sec. 26. This act shall be in force from and after its passage until the 1955 session of the legislature adjourns sine die.

Approved April 24, 1953.

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CHAPTER 750—S. F. No. 261

*An act relating to the Minnesota state teachers retirement fund and amending Minnesota Statutes 1949, Section 135.04, as amended by Laws 1951, Chapter 481, Section 1;*