

TITLE XXVII.

Actions and Proceedings in Special Cases.

CHAPTER 285.

ACTIONS AGAINST STATE.

285.01	Actions against state; bond.	285.06	Payment toward state employe judgments.
285.04	Judgment, how paid.		
285.05	Compensation for innocent convicts.		

285.01 Actions against state; bond. Upon the refusal of the legislature to allow a claim against the state the claimant may commence an action against the state by serving the summons and complaint on the attorney-general or by leaving copies at his office and by filing with the clerk of court a bond, not exceeding \$1,000, with two or more sureties, to be approved by the attorney-general, to the effect that he will indemnify the state against all costs that may accrue in such action and pay to the clerk of court all costs, in case he shall fail to obtain judgment against the state.

Plaintiffs had filed with the legislature a claim based only on asserted rights as assignees of the original contracting parties, and the legislature had disallowed the claim solely on the ground that, under provisions of the contract, the plaintiffs as such assignees had no right under the contract. Plaintiffs now sue on the theory that they are the owners of the claim by operation of law as successors to the original partnership and corporation which were parties to the contract. Suit dismissed because claim not properly filed before legislature. *Sehlin v. State*, 256 W 495, 41 NV (2d) 596.

A county's action against the state, for the recovery of county funds wrongfully used by the county clerk in remitting to the state for hunting and fishing licenses issued by him, was not one to recover on an "equitable claim" but was one to recover on an obligation implied in law, for the recovery of money had and received, and was one at law on a claim rendering the state a debtor, so that it was within this section, authorizing the commencement of an action against the state on the refusal of the legislature to allow a "claim" against the state. *Trempealeau County v. State*, 260 W 602, 51 NW (2d) 499.

Costs are recoverable by the plaintiff if successful in obtaining judgment against the state. *Holton & Hunkel Greenhouse Co. v. State*, 274 W 337, 80 NW (2d) 371.

Liability of state in various "moral obligation" situations discussed. 40 Atty. Gen. 178.

285.04 Judgment, how paid. No execution shall issue against the state on any judgment, but whenever a final judgment against the state shall have been obtained in any such action the clerk shall make and furnish to the director of budget and accounts a duly certified transcript of such judgment; and the director of budget and accounts shall thereupon audit the amount of damages and costs therein awarded, and the same shall be paid out of the state treasury.

285.05 Compensation for innocent convicts. (1) The governor and the director of the state department of public welfare constitute a commission for the relief of innocent persons who have been convicted of crime.

(2) Any person who after May 10, 1913 shall serve a term of imprisonment under conviction for a crime against the state, of which crime he claims to be innocent, or any person who has been pardoned on the ground of innocence and whose imprisonment shall thereby be shortened, may petition the commission for compensation for such wrongful imprisonment.

(3) After hearing the evidence on the petition, the commission shall find either that it is clear beyond a reasonable doubt that the petitioner was innocent of the crime for which he suffered imprisonment, or that it is not clear beyond a reasonable doubt that he was innocent. Upon the hearing the record of the trial in which the conviction was had may be presented to the commission for the purpose of enabling it to understand the situation, but the finding of the commission shall be based only on such evidence or circumstances as have been discovered or have arisen since conviction.

(4) If the commission shall find that the petitioner was innocent and that he did not by his act or failure to act contribute to bring about the conviction and imprisonment for which he seeks compensation, the commission shall find the amount which will compensate him for his wrongful imprisonment but not to exceed five thousand dollars and at a rate of compensation not greater than fifteen hundred dollars per year for the imprisonment. If the commission shall find that the amount it is able to award will not be an adequate compensation it shall report an amount to the legislature which it shall deem adequate.

(5) The commission shall keep a complete record of its proceedings in each case and of all the evidence. The findings and the award of the commission shall be subject to review as provided in chapter 227.

285.06 Payment toward state employe judgments. (1) The governor, the chairman of the senate finance committee, the chairman of the assembly finance committee and the director of public welfare shall constitute a commission for the relief of law enforcement officers employed by the state who have judgments against them for damages caused while in their line of duty where they acted in good faith and who have incurred charges for counsel fees and costs in defending said action.

(2) Any such judgment debtor may petition the commission, setting forth the amount of the judgment, fees and costs which he must pay, the facts and circumstances causing the damages resulting in the judgment and the reasons for claiming relief under this section. The petition may be filed in the executive office.

(3) Upon receipt of such petitions the commission shall fix a time and place for hearing the matter and give notice thereof to the petitioner.

(4) Upon the hearing the record of the trial in which the judgment was had may be presented to the commission but the findings, conclusions and determination and the award of, or the denial thereof by the commission, shall be based on all the evidence and circumstances submitted to it which bear on the petition.

(5) If from its findings of fact the commission concludes that the petitioner was in line of duty as a law enforcement officer of the state and acted in good faith at the time of the transaction in question, the commission shall so award, and certify to the petitioner the amount of the judgment, fees and costs which the petitioner must pay, from the appropriation made by s. 20.488 (1), but not to exceed \$5,000.

(6) If the commission shall find that the amount it is able to award will not be adequate it shall report the amount of the difference to the legislature for its action.

(7) The commission shall keep a complete record of its proceedings in each case and of all the evidence. The findings, conclusions, determination and award shall be subject to review as provided in ch. 227.

History: 1953 c. 621.