

TITLE XXVII.

Actions and Proceedings in Special Cases.

CHAPTER 285

ACTIONS AGAINST STATE

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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 service as provided in s. 801.11 (3) and by filing with the clerk of court a bond, not exceeding \$1,000, with 2 or more sureties, to be approved by the attorney general, to the effect that the claimant will indemnify the state against all costs that may accrue in such action and pay to the clerk of court all costs, in case the claimant fails to obtain judgment against the state.

History: Sup Ct Order, 67 W (2d) 775; 1975 c. 218.

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 department of administration a duly certified transcript of such judgment; and the department of administration 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 claims board shall hear petitions for the relief of innocent persons who have been convicted of a crime.

(2) Any person who serves a term of imprisonment under conviction for a crime, of which crime he claims to be innocent, or any person who has been pardoned on the ground of innocence and whose imprisonment is thereby

shortened, may petition the claims board for compensation for such wrongful imprisonment.

(3) After hearing the evidence on the petition, the claims board 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 claims board for the purpose of enabling it to understand the situation, but the finding of the claims board shall be based only on such evidence or circumstances as have been discovered or have arisen since conviction.

(4) If the claims board 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 claims board shall find the amount which will compensate him for his wrongful imprisonment but not to exceed \$5,000 and at a rate of compensation not greater than \$1,500 per year for the imprisonment. If the claims board 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 claims board shall keep a complete record of its proceedings in each case and of all the evidence. The findings and the award of the claims board shall be subject to review as provided in ch. 227.

285.06 Payment toward state employe judgments. (1) The claims board shall hear petitions from 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 claims board, 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.

(3) Upon receipt of such petitions the claims board 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 claims board but the findings, conclusions and determination and the award of, or the denial thereof by the claims board, 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 claims board 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 claims board shall award and certify to the petitioner the amount of the judgment which the petitioner must pay; if the claims board further finds that the counsel fees and costs claimed by the petitioner are reasonable and that the contract of employment was in accordance with law and was not made with any other state officer, employe, or agent, the claims board shall further award and certify to the petitioner the amount of said counsel fees and costs; the entire award shall be from the appropriation made by s. 20.505 (3) (a), but not to exceed \$5,000.

(6) If the claims board 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 claims board 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.

Cross Reference: See 895.46 for general provision for payment of judgments against public officers or employes

285.10 State party defendant; judgment.

The state may be made a party defendant in any action for a declaration of interests under s. 841.01 or between other parties, when necessary to the proper determination of their rights. The complaint shall set forth with particularity the nature of the interest or lien of the state. But no judgment for the recovery of money or personal property or costs shall be rendered in any such action against the state.

History: 1973 c. 189 s. 8; Sup Ct. Order, 67 W (2d) 775.

285.11 Payment of state employe attorney's fees in certain cases. (1) Any state employe against whom charges are filed under s. 940.29, and who is subsequently found not guilty, shall be reimbursed by the state for reasonable attorney's fees and costs in defending such action.

(2) Claims against the state under this section shall be filed with the claims board as provided in s. 285.06.

(3) On receipt of such a claim the claims board shall determine whether the claim is authorized by this section and if so shall determine the amount of attorney's fees and costs incurred and shall allow such attorney's fees and costs as in its judgment are reasonable.