CHAPTER 775
ACTIONS AGAINST STATE

775.01 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 exceed-
ing $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) 585, 775 (1975); 1975 c. 218; 1979 c. 32 s.
53; Stats. 1979 s. 775.01.
See note to Art. IV, sec. 27, citing Lister v. Bd. of Regents, 72 W (2d) 282, 240 NW
(2d) 610.
Bond requirement of 775.01 can be waived under 814.29 (1). Boldt v. State, 101
W (2d) 566, 305 NW (2d) 133 (1981).

775.04 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.
History: 1979 c. 32 s. 53; Stats. 1979 s. 775.04.

775.05 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 is imprisoned as the result of his or her
conviction for a crime in any court of this state, of which crime the
person claims to be innocent, and who is released from imprison-
ment for that crime after March 13, 1980, may petition the claims
board for compensation for such imprisonment. Upon receipt of
the petition, the claims board shall transmit a copy thereof to the
prosecutor who prosecuted the petitioner and the judge who sen-
tenced the petitioner for the conviction which is the subject of the
claim, or their successors in office, for the information of these
persons.
(3) After hearing the evidence on the petition, the claims
board shall find either that the evidence is clear and convincing
that the petitioner was innocent of the crime for which he or she
suffered imprisonment, or that the evidence is not clear and con-
vincing that he or she was innocent.
(4) If the claims board finds that the petitioner was innocent
and that he or she did not by his or her act or failure to act contrib-
ute to bring about the conviction and imprisonment for which he or
she seeks compensation, the claims board shall find the amount
which will equitably compensate the petitioner, not to exceed
$25,000 and at a rate of compensation not greater than $5,000 per
year for the imprisonment. Compensation awarded by the claims
board shall include any amount to which the board finds the peti-
tioner is entitled for attorney fees, costs and disbursements. If the
claims board finds that the amount it is able to award is not an ade-
quate compensation it shall submit a report specifying an amount
which it considers adequate to the chief clerk of each house of the
legislature, for distribution to the legislature under s. 13.172 (2).
(5) The claims board shall keep a complete record of its pro-
cedings in each case and of all the evidence. The findings and
the award of the claims board shall be subject to review as pro-
vided in ch. 227.
History: 1979 c. 32 s. 53; 1979 c. 126, 176; Stats. 1979 s. 775.05; 1987 a. 186.

775.06 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 the
debtor 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 judg-
ment was had may be presented to the claims board but the find-
ings, conclusions and determination and the award of, or the denial
thereof by the claims board, shall be based on all the evi-
dence and circumstances submitted to it which bear on the peti-
tion.
(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 employ-
tment 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 (4) (d), 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 submit a report of the amount
of the difference to the chief clerk of each house of the legislature,
for distribution to the legislature under s. 13.172 (2), for action by
the legislature.
(7) The claims board shall keep a complete record of its pro-
cedings in each case and of all the evidence. The findings, con-
clusions, determination and award shall be subject to review as pro-
vided in ch. 227.
History: 1979 c. 32 s. 53; 1979 c. 34 s. 2102 (1) (c); 1979 c. 176; Stats. 1979 s.
775.06; 1981 c. 20 s. 2202 (1) (b); 1987 a. 186.
Cross-reference: See s. 895.46 for general provision for payment of judgments
against public officers or employes.

775.10 State party defendant; judgment. The state may
be made a party defendant in any action for a declaration of inter-
ests 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) 585, 775 (1975); 1979 c. 32
s. 53; Stats. 1979 s. 775.10.
An action for specific performance of a real estate purchase agreement is not an action for a declaration of interest in real estate. A specific performance action is a suit under Art. IV s. 27 to which the legislature has not consented and is not permitted against the state. Erickson Oil Products, Inc. v. DOT, 184 W. (2d) 36, 516 NW (2d) 755 (Ct. App. 1994).

775.11 Payment of state employe attorney 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 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. 775.06.  

(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 fees and costs incurred and shall allow such attorney fees and costs as in its judgment are reasonable.  

History: 1979 c. 32 ss. 53, 92 (5); Stats. 1979 s. 775.11; 1993 a. 490.