

LEGISLATIVE BILL 1028

Approved by the Governor February 24, 1984

Introduced by DeCamp, 40

AN ACT relating to claims; to amend sections 81-8,211, 81-8,224, and 81-8,239, Reissue Revised Statutes of Nebraska, 1943, and section 81-8,212, Revised Statutes Supplement, 1983; to change procedures relating to claims against the state; to change the powers and duties of the Attorney General and the State Claims Board; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 81-8,211, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,211. Authority is hereby conferred upon the State Claims Board, acting on behalf of the State of Nebraska, ~~and with the advice and approval of the Attorney General;~~ to consider, ascertain, adjust, compromise, settle, determine, and allow any tort claim as defined in this act. If any tort claim is compromised, settled, or allowed in an amount of more than five thousand dollars, the unanimous approval of all members of the State Claims Board ~~and the Attorney General~~ shall be required; and such claims also shall be approved submitted for approval by the district court for Lancaster County. When approval of the district court is required, the Attorney General shall make application for such approval and shall file with the application a complete record of the action of the State Claims Board on such claim. The claimant may join in such application; and if the claimant does so, the court may proceed to act on the application without further notice to either party. If the claimant does not join in the application, the court shall require actual notice to all parties before acting on the application. The court may deny the application for any legal and sufficient reason; or may direct the State Claims Board to conduct further hearings on any material issues. The fees of the clerk of the district court for filing, docketing, and indexing such application shall be five dollars.

Sec. 2. That section 81-8,212, Revised Statutes Supplement, 1983, be amended to read as follows:

81-8,212. All tort claims under this act shall be filed with the Risk Manager of the State Claims Board. The Risk Manager shall immediately advise the Attorney General of the filing of any claim. It ~~and it~~ shall be

the duty of the Attorney General to cause a complete investigation to be made of all such claims and serve as a legal advisor to the State Claims Board on all such claims. In any suit brought under this act, service of process shall be made in the manner provided for service of a summons in a civil action.

Sec. 3. That section 81-8,224, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,224. Any award to a claimant and any judgment in favor of a claimant under this act shall be certified by the ~~Attorney General~~ State Claims Board to the Director of Administrative Services, who shall promptly issue a ~~his~~ warrant for payment of such award or judgment out of the Tort Claims Fund, if sufficient money is available in such fund, except that ; ~~Provided~~, no portion in excess of fifty thousand dollars of any award or judgment shall be paid until such award or judgment has been reviewed by the Legislature and specific appropriation made therefor. All awards and judgments which arise out of the same or similar facts and circumstances shall be aggregated for the purpose of determining whether such awards and judgments shall be reviewed by the Legislature and specific appropriation made therefor. Delivery of any warrant in satisfaction of an award or judgment shall be made only upon receipt of a written release by the claimant in a form approved by the ~~Attorney General~~ State Claims Board.

Sec. 4. That section 81-8,239, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,239. After investigation, the State Claims Board shall either approve, approve with conditions or limitations, or disapprove of each claim or request, and append to the claim or request a concise statement of the facts brought out in such investigation upon which its approval or disapproval is based. Such claim or request, together with the original papers supporting it and the appended statement, shall be filed in the office of the Risk Manager, and delivered to the chairperson of the appropriate committee of the next Legislature convening after the filing of the claim or request. ~~The~~ ; ~~Provided~~, ~~the~~ Risk Manager may direct the payment by the state agency involved of any claim approved by the board ~~it~~ not in excess of two thousand dollars when such payment is agreed to by the head of the agency involved. If claims approved by the State Claims Board arise out of the same or similar facts and circumstances, they shall be aggregated. If the aggregate amount exceeds two thousand dollars, such claims shall be reviewed by the Legislature and an appropriation made therefor, if appropriate.

Sec. 5. That original sections 81-8,211, 81-8,224, and 81-8,239, Reissue Revised Statutes of Nebraska, 1943, and section 81-8,212, Revised Statutes Supplement, 1983, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.