

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945

ENROLLED

Committee Substitute for

HOUSE BILL No. *64*

Originating in the House Committee on the Judiciary.

(By Mr. _____)

PASSED *March 8* 1945

In Effect *90 days from* Passage

3-15

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COMMITTEE SUBSTITUTE FOR

House Bill No. 64

[Originating in the House Committee on the Judiciary.]

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AN ACT to amend and reenact sections two, five, seven, eight, thirteen, fourteen and nineteen, article two, chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter twenty, acts of the Legislature, regular session, one thousand nine hundred forty-one, all relating to claims and proceedings against the state, its officers and agencies.

Be it enacted by the Legislature of West Virginia:

That sections two, five, seven, eight, thirteen, fourteen, nineteen, article two, chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter twenty, acts of the Legislature, regular session, one thousand nine hundred forty-one, be amended and reenacted to read as follows:

Sec. 2. *Definitions.*—For the purpose of this article:

2 "Court" means the state court of claims established by
3 section four of this article.

4 "Claim" means a claim authorized to be heard by the
5 court in accordance with this article.

6 "Approved claim" means a claim found by the court to
7 be one that should be paid under the provisions of this
8 article.

9 "Award" means the amount recommended by the court
10 to be paid in satisfaction of an approved claim.

11 "Clerk" means the clerk of the court of claims.

12 "State agency" means a state department, board, com-
13 mission, institution, or other administrative agency of the
14 state government: *Provided, however, That* a "state
15 agency" shall not be considered to include county courts,
16 county boards of education, municipalities, or any other
17 political or local subdivision of the state regardless of
18 any state aid that might be provided.

Sec. 5. *Court Clerk.*—The court shall have authority to
2 appoint a clerk, and shall fix his salary at not to exceed
3 the sum of three thousand six hundred dollars per annum
4 to be paid out of the regular appropriation for the court.

5 The clerk shall have custody of all records and proceed-
6 ings of the court, shall attend meetings and hearings of
7 the court, shall administer oaths and affirmations and
8 shall issue all official summons, orders, statements and
9 awards.

Sec. 7. *Meeting Place of the Court.*—The regular meet-
2 ing place of the court shall be at the state capitol, and the
3 board of public works shall provide adequate quarters
4 therefor. When deemed advisable, in order to facilitate
5 the full hearing of claims arising elsewhere in the state,
6 the court may convene at any county seat.

Sec. 8. *Compensation of Members.*—Each judge of the
2 court shall receive twenty dollars for each day actually
3 served, and actual expenses incurred in the perform-
4 ance of his duties. Requisition for traveling expenses
5 shall be accompanied by a sworn and itemized statement,
6 which shall be filed with the auditor and preserved as a
7 public record. For the purpose of this section, days
8 served shall include time spent in the hearing of claims, in
9 the consideration of the record, and in the preparation of
10 opinions. In no case, however, shall a judge receive com-

11 pension for more than one hundred fifty days' service
12 in any fiscal year.

Sec. 13. *The Jurisdiction of the Court.*—The jurisdiction
2 of the court, except for the claims excluded by section
3 fourteen, shall extend to the following matters:

4 1. Claims and demands, liquidated and unliquidated,
5 ex contractu and ex delicto, against the state or any of
6 its agencies, which the state as a sovereign commonwealth
7 should in equity and good conscience discharge and pay.

8 2. Claims and demands, liquidated and unliquidated,
9 ex contractu and ex delicto, which may be asserted in the
10 nature of set-off or counter claim on the part of the state
11 or any of its agencies.

12 3. The legal or equitable status, or both, of any claim
13 referred to the court by the head of a state agency for an
14 advisory determination.

Sec. 14. *Claims Excluded.*—The jurisdiction of the court
2 shall not extend to any claim:

3 1. For loss, damage, or destruction of property or for
4 injury or death incurred by a member of the militia or
5 national guard when in the service of the state.

6 2. For injury to or death of an inmate of a state penal
7 institution.

8 3. Arising out of the care or treatment of a person in a
9 state institution.

10 4. For a disability or death benefit under chapter
11 twenty-three of this code.

12 5. For unemployment compensation under chapter
13 twenty-one-a of this code.

14 6. For relief or public assistance under chapter nine of
15 this code.

16 7. With respect to which a proceeding may be main-
17 tained by or on behalf of the claimant in the courts of the
18 state.

Sec. 19. *Claims under Existing Appropriations.*—A
2 claim arising under an appropriation made by the Legis-
3 lature during the fiscal year to which the appropriation
4 applies, and falling within the jurisdiction of the court,
5 may be submitted by:

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

8 2. The head of the state agency concerned in order to

9 obtain a determination of the matters in issue.

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

12 The regular procedure, so far as applicable, shall gov-
13 ern the consideration of the claim by the court. If the
14 court finds that the claimant should be paid, it shall cer-
15 tify the approved claim and award to the head of the
16 state agency, the state auditor and the governor. The
17 governor may thereupon instruct the auditor to issue his
18 warrant in payment of the award and to charge the
19 amount thereof to the proper appropriation. The audi-
20 tor shall forthwith notify the state agency that the claim
21 has been paid. Such an expenditure shall not be subject
22 to further review by the auditor upon any matter deter-
23 mined and verified by the court.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Charles C Morris
Chairman Senate Committee

J. A. DeGruyter Jr.
Chairman House Committee

Originated in the

House

Takes effect

90 days from passage.

Howard Hughes
Clerk of the Senate

Skipp
Clerk of the House of Delegates

Arnold W. Vickers
President of the Senate

John E. Amos
Speaker House of Delegates

The within

Approved

this the

15th

day of

March

, 1945.

Clarence Medow
Governor.



Filed in the office of the Secretary of State
of West Virginia

MAR 16 1945

Wm. S. O'BRIEN,
Secretary of State