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### State and Local Government

#### I-6 Joint Committee on Special Claims Against the State

The Kansas Tort Claims Act, enacted in 1979, allows state agencies to accept a limited amount of liability. The Tort Claims Fund, established in the Office of the Attorney General, offers recourse for other actions brought against the State. The State does assume certain responsibility for its actions under the tort claims statutes; however, there are certain areas under those statutes where the State has no liability.

The fact that state agencies are immune under statute does not mean a citizen cannot be injured by some action of the State. A potential claimant may have no remedy other than filing a claim with the Joint Committee on Special Claims Against the State (Joint Committee).

The purpose of the Joint Committee is to consider and evaluate claims against the State that cannot be lawfully paid by the State or state agency, except by an appropriation act of the Legislature. The claims that come to the Joint Committee involve an issue of equity and do not always involve the issue of negligence on the part of the State or a state employee.

#### Joint Committee Membership

The Joint Committee has seven members, consisting of three members of the Senate and four members of the House of Representatives. At least one representative must be a member of the House Committee on Appropriations and at least one senator must be a member of the Senate Committee on Ways and Means.

The chairperson of the Joint Committee alternates between the House and Senate members at the start of each biennium. The members appointed from each chamber must include minority party representation. Any four members of the Joint Committee constitutes a quorum. Action of the Joint Committee may be taken by an affirmative vote of a majority of the members present, if a quorum is present. In 2017, enactment of SB 50 removed the requirement that at least one House of Representatives member and one Senate member must be an attorney licensed to practice law in Kansas (KSA 2018 Supp. 46-912).

## Claims Process

The claimant starts the claims process by completing and submitting a claim form pursuant to KSA 2018 Supp. 46-913. The claim form is available on the Internet through both the Legislature's website and the Kansas Legislative Research Department (KLRD)'s website (<http://www.kslegresearch.org/KLRD-web/Publications/Resources/Documents/ClaimsAgainstState/FillableClaimsForm.pdf>), or it may be requested in hard copy by contacting KLRD.

The claimant indicates on the claim form whether he or she wishes to appear in person for the hearing. In-person hearings for claimants who currently are incarcerated are conducted *via* telephone conference.

Claimants who request to appear in person for their hearing are notified 15 days in advance of the hearing *via* certified mail, as prescribed in KSA 46-914. Additionally, the claim form must be notarized prior to consideration of the claim.

KSA 46-914 also requires notification to the state agency involved within 15 days in advance of the hearing *via* certified mail. State agencies and employees are charged with providing the Joint Committee with information and assistance as the Joint Committee deems necessary.

The rules of evidence do not apply to the Joint Committee. However, the Joint Committee is authorized by KSA 46-917 to adopt procedural guidelines as may be necessary for orderly procedure in the filing, investigation, hearing, and disposition of claims before it. The Joint Committee has adopted 12 guidelines (Joint Committee rules) to assist in the process. These guidelines are available on the Internet through both the Legislature's website and KLRD's website, or can be requested in hard copy by contacting KLRD.

The Joint Committee traditionally holds hearings during the interim. The Joint Committee is mandated by statute (KSA 46-918) to hear all claims filed by November 1st during that interim.

The Joint Committee can meet during the legislative session only if both the President of the Senate and the Speaker of the House of Representatives authorize the meetings, pursuant to KSA 46-918.

## Joint Committee Recommendations

The Joint Committee makes recommendations regarding the resolution of the claims. The Joint Committee is required by KSA 46-915 to notify the claimants of its recommendation regarding the claim within 20 days after the hearing.

The Joint Committee submits its recommendations for payment of claims it has heard in the form of a bill presented to the Legislature at the start of each legislative session.

## Claims Payments

Payment for claims that are appropriated by the Legislature and signed into law by the Governor are paid by the Division of Accounts and Reports.

Prior to receiving payment, claimants are required to sign a release. A claimant's acceptance of any payment is final and conclusive and constitutes a complete release of any claim against the State (KSA 2018 Supp. 46-924).

When an inmate owes an outstanding unpaid amount of restitution ordered by a court, money received by the inmate from a claim settlement is withdrawn from the inmate's trust account as a set-off, pursuant to KSA 2018 Supp. 46-920.

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