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Claims Against the State, by the Kansas Legislature Council Research Department

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REVIEW OF GOVERNMENT PUBLICATIONS

CLAIMS AGAINST THE STATE. Publication No. 106 (Nov. 1940)
Research Department, Kansas Legislature Council. pp. X, 31.

This is a processed pamphlet publication relating to procedure for proof and allowance of claims against the state. It was prepared by the Research Department of the Kansas Legislative Council. It consists of an analysis of claims handled by the joint committee on claims and accounts of the 1939 legislature, an examination of procedure used in other states for the determination of claims, and a discussion of possible changes in the present Kansas procedure.

The usual state procedure for handling claims has been by reference to a legislative committee on claims. Sometimes this is a joint committee, sometimes the claims committees of both houses agree to meet in joint session. Claims committees may make investigations, call witnesses and make recommendations. But because claim bills are frequently passed at the end of the session rush, with little opportunity of determining in fact the validity of the claims, many states have sought better and fairer methods of handling them.

According to the pamphlet under review "At least 22 states have made provision, in their constitutions or statutes, for suits on claims against the state."

In some states a general law authorizes suits against the state. In most of such cases judgments against the state, can be satisfied only by subsequent legislative appropriation. Other states have provided for liability in certain classes of cases, such as highway accidents and there is a tendency to require such claims, if established, to be paid out of the highway funds. In some states permission to sue is granted to particular individuals by special legislative enactments. Only three states seem to have followed the federal example of establishing a special court of claims. In a few states claims are referred to administrative boards or commissions. Legislatures, however, jealously guard their power to vote appropriations and in consequence the usual method of satisfying private claims against the state is by direct legislative appeal.

Occasionally restrictions are placed on direct appeals to the legislature. One act provides that "No claim against the State of Iowa shall be considered or allowed by the General Assembly except it be presented before the State Appeal Board as provided in this act."¹ All claims must first be examined and recommended to the Appeal Board by a Special Assistant Attorney General on Claims. The act also provides that when a case has been presented to the General Assembly through the State Appeal Board, and the General Assembly has failed or refused to make an appropriation therefor, further proceedings before the General Assembly for the payment of such a claim are barred.

The purpose of such a provision is to stop the resubmission of unworthy claims year after year, in the hope that the Assembly will finally allow the claim to be rid of it.

¹ Iowa Acts 1941, c. 71, §8.

While the Kansas study was made primarily for the guidance of the Kansas Legislature, it will be helpful to every state whose method of handling claims is unsatisfactory.

The conclusion of this study is probably sound:—that where fact situations are relatively simple and the questions of law presented are not so difficult as to require special treatment, administrative determination is preferable to judicial action, because the procedure is less cumbersome, less expensive and less technical than suits in the courts.

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