

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1860

By: Johnson (Constance)

AS INTRODUCED

An Act relating to officers; amending 51 O.S. 2001, Sections 156, as last amended by Section 4, Chapter 304, O.S.L. 2003, and 158 (51 O.S. Supp. 2005, Section 156), which relate to presentation and settlement of claim; updating language; increasing certain amount; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 51 O.S. 2001, Section 156, as last amended by Section 4, Chapter 304, O.S.L. 2003 (51 O.S. Supp. 2005, Section 156), is amended to read as follows:

Section 156. A. Any person having a claim against the state or a political subdivision within the scope of Section 151 et seq. of this title shall present a claim to the state or political subdivision for any appropriate relief including the award of money damages.

B. Except as provided in subsection H of this section, claims against the state or a political subdivision are to be presented within one (1) year of the date the loss occurs. A claim against the state or a political subdivision shall be forever barred unless notice thereof is presented within one (1) year after the loss occurs.

C. A claim against the state shall be in writing and filed with the Office of the Risk Management Administrator of the ~~Purchasing Division of the Office of Public Affairs~~ Department of Central Services who shall immediately notify the Attorney General and the agency concerned and conduct a diligent investigation of the validity of the claim within the time specified for approval or

denial of claims by Section 157 of this title. A claim may be filed by certified mail with return receipt requested. A claim which is mailed shall be considered filed upon receipt by the Office of the Risk Management Administrator.

D. A claim against a political subdivision shall be in writing and filed with the office of the clerk of the governing body.

E. The written notice of claim to the state or a political subdivision shall state the date, time, place and circumstances of the claim, the identity of the state agency or agencies involved, the amount of compensation or other relief demanded, the name, address and telephone number of the claimant, and the name, address and telephone number of any agent authorized to settle the claim. Failure to state either the date, time, place and circumstances and amount of compensation demanded shall not invalidate the notice unless the claimant declines or refuses to furnish such information after demand by the state or political subdivision. The time for giving written notice of claim pursuant to the provisions of this section does not include the time during which the person injured is unable due to incapacitation from the injury to give such notice, not exceeding ninety (90) days of incapacity.

F. When the claim is one for death by wrongful act or omission, notice may be presented by the personal representative within one (1) year after the death occurs. If the person for whose death the claim is made has presented notice that would have been sufficient had he lived, an action for wrongful death may be brought without any additional notice.

G. Claims and suits against resident physicians or interns shall be made in accordance with the provisions of Titles 12 and 76 of the Oklahoma Statutes.

H. For purposes of claims based on wrongful felony conviction resulting in imprisonment provided for in Section 154 of this title, loss occurs on the date that the claimant receives a pardon based on

actual innocence from the Governor or the date that the claimant receives judicial relief absolving the claimant of guilt based on actual innocence; provided, for persons whose basis for a claim occurred prior to the effective date of this act, the claim must be submitted within one (1) year after the effective date of this act.

SECTION 2. AMENDATORY 51 O.S. 2001, Section 158, is amended to read as follows:

Section 158. A. The state or a political subdivision, after conferring with authorized legal counsel, may settle or defend against a claim or suit brought against it or its employee under this act subject to any procedural requirements imposed by statute, ordinance, resolution or written policy, and may appropriate money for the payment of amounts agreed upon. When the amount of any settlement exceeds ~~Ten Thousand Dollars (\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00), and any payment required by the settlement will not be paid through an applicable contract or policy of insurance, the settlement shall not be effective until approved by the district court and entered as a judgment as provided by law.

B. If a policy or contract of liability insurance covering the state or political subdivision or its employees is applicable, the terms of the policy govern the rights and obligations of the state or political subdivision and the insurer with respect to the investigation, settlement, payment and defense of claims or suits against the state or political subdivision or its employees covered by the policy. However, the insurer may not enter into a settlement for an amount which exceeds the insurance coverage without the approval of the governing body of the state or political subdivision or its designated representative if the state or political subdivision is insured.

C. Nothing in this section shall be construed to repeal or modify Sections 361 through 365.6 and 435 of Title 62 of the

Oklahoma Statutes and it is intended that this section be construed in conformance with those sections.

D. The state or a political subdivision shall not be liable for any costs, judgments or settlements paid through an applicable contract or policy of insurance but shall be entitled to set off those payments against liability arising from the same occurrence.

E. The state or a political subdivision shall have the right of subrogation against the insurer issuing any applicable contractor policy of insurance to the monetary limit of said policy of insurance or contract, if judgment or settlement of any claim arising pursuant to this act results in the imposition of monetary liability upon the state or the political subdivision.

F. Judgments, orders, and settlements of claims shall be open public records unless sealed by the court for good cause shown.

SECTION 3. This act shall become effective November 1, 2006.

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