

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2002

H. P. 1931

Office of the Clerk of the House

The Committee on Judiciary suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Mr. Jensen of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Simplify the Procedure for Submission of Certain Small Claims Against the State.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 5 MRSA § 1510, as repealed and replaced by PL 1975, c. 771, § 69, is repealed.

Sec. 2. 5 MRSA § 1510-A is enacted to read:

§ 1510-A. Certain claims against the State

1. Claims against state agency. A state agency may hear and decide any claim of \$2,000 or less against it, or any of its agents, which cannot otherwise be submitted under a specific statutory provision other than this section. An agency paying all or part of a claim heard under this subsection shall make payment as soon as practicable from currently available agency funds and, if no funds are then available, from agency funds from the following fiscal year. An agency deciding a claim under this subsection shall make its final decision in writing and shall, as soon as practicable, send a copy of that decision to the claimant by certified mail.

2. Claims against the State decided by the State Claims Board. A claim of \$2,000 or less against any state agency, or any of its agents, may be submitted to the State Claims Board and heard and decided by it, if:

A. That claim was submitted under subsection 1 to a state agency which refused to hear it; or

B. The claim cannot be submitted under a specific statutory provision other than subsection 1 because the claimant, as a result of an action or omission of a state agency or state agent, has not complied with time limits contained in that specific statutory provision.

Any payment resulting from a decision of the State Claims Board on a claim submitted to it under this subsection shall be paid as soon as practicable by the state agency or agencies found responsible by the State Claims Board or, if there is no clearly identifiable responsible state agency, the payment shall be paid from the state contingent fund.

3. Appeal from departmental decisions. Any claim disapproved in whole or part by a state agency hearing that claim under subsection 1 may be appealed to the State Claims Board within 30 days from the disapproval or partial disapproval. The State Claims Board shall hear de novo any claim so appealed.

Any payment resulting from a decision of the State Claims Board on a claim submitted to it under this subsection shall be paid by the state agency or agencies found responsible by the State Claims Board or, if there is no clearly identifiable responsible state agency, the payment shall be paid from the state contingent fund.

4. Appeal from State Claims Board decision. An appeal from the disapproval or partial disapproval of a claim decided by the State Claims Board under subsection 2 or 3 shall be by introduction of a bill into the Legislature.

5. Jurisdiction over claims prior to July 4, 1977. The jurisdiction of the State Claims Board over claims subject to this section includes those claims which have arisen prior to January 4, 1977, unless they have been ruled upon by the Governor and Executive Council or by the Legislature prior to January 4, 1977.

6. Hearings. Hearings on claims submitted under subsection 2 or appeals made under subsection 3 shall be held at a time and place which the State Claims Board shall determine. The chairman shall assign either one or 3 members to hear and determine each claim. Hearings on claims properly submitted to the State Claims Board shall be held in accordance with the Maine Administrative Procedure Act, chapter 375.

7. Rules and regulations; report. The board may adopt rules and regulations to implement this section. The board shall, on or before January 30th of each year, report to the Legislature on all claims filed pursuant to this section.

STATEMENT OF FACT

This bill will reform the present system of hearing small claims submitted against state agencies by providing that most small claims shall be heard by the department concerned, instead of by the State Claims Board.

The bill authorizes each state agency to hear any claim of \$2,000 or less against it and to pay any award of that claim out of available agency funds. If no funds are then available, then the payment is to be made out of agency funds for the next fiscal year.

If the agency refuses to hear a claim against it, the claimant may then submit that claim to the State Claims Board. The State Claims Board may hear the claim and is authorized to direct any payment of the claim out of the funds of the state agency found responsible for the damage which is the subject of the claim. If the board finds there is no clearly

identifiable responsible state agency, then payment can be made from the state contingent fund.

The bill also permits a claimant whose claim has been disapproved or partially disapproved by an agency to appeal that claim to the State Claims Board. The bill again provides that the board can direct any payment of the claim out of the funds of the state agency found responsible for the claim or, if the board finds no agency is responsible, then payment can be made from the state contingency fund.