

44.070 Board of Claims -- Limitation on damage awards -- Hearing officers -- Asbestos related claims.

- (1) A Board of Claims, composed of the members of the Crime Victims Compensation Board as hereinafter provided, is created and vested with full power and authority to investigate, hear proof, and to compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies; provided, however, regardless of any provision of law to the contrary, the Commonwealth, its cabinets, departments, bureaus, and agencies, and its officers, agents, and employees, while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies, shall not be liable for collateral or dependent claims which are dependent on loss to another and not the claimant, damages for mental distress or pain or suffering, and compensation shall not be allowed, awarded, or paid for said claims for damages. Furthermore, any damage claim awarded shall be reduced by the amount of payments received or right to receive payment from workers' compensation insurance, social security programs, unemployment insurance programs, medical, disability or life insurance programs, or other federal or state or private program designed to supplement income or pay claimant's expenses or damages incurred. Any claim against the Commonwealth, its departments, agencies, officers, agents, or employees, or a school district board of education, its members, officers, agents, or employees for damages sustained as the result of exposure to asbestos before, during or after its removal from a facility owned, leased, occupied, or operated by the Commonwealth or a school district board of education shall be brought before the Board of Claims. Except as herein provided, the board shall be independent of all agencies, cabinets, and departments of the Commonwealth except as provided in KRS 44.070 to 44.160.
- (2) The board shall be composed of the members of the Crime Victims Compensation Board. The members shall not be entitled to additional compensation for their services on the Board of Claims.
- (3) The Governor shall designate a member of the board to serve as chairman for a term of four (4) years. Any vacancy in the chairmanship shall be filled by the Governor. No member shall, at the same time, serve as chairman of the Crime Victims Compensation Board and as chairman of the Board of Claims.
- (4) The employees of the Crime Victims Compensation Board, without additional compensation, shall be ex officio employees of the Board of Claims.
- (5) Regardless of any provision of law to the contrary, the jurisdiction of the board is exclusive, and a single claim for the recovery of money or a single award of money shall not exceed two hundred thousand dollars (\$200,000), exclusive of interest and costs. However, if a single act of negligence results in multiple claims, the total award may not exceed three hundred fifty thousand dollars (\$350,000), to be equitably divided among the claimants, but in no case may any claimant

individually receive more than two hundred thousand dollars (\$200,000).

- (6) The Governor shall appoint the necessary number of hearing officers, each of whom shall be an attorney admitted to practice law in Kentucky and shall have practiced law for at least three (3) years. These officers, upon the direction of the chairman or the board, shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by the chairman or the board, except that such hearing officers shall not render final decisions, orders, or awards. However, such hearing officers may, in receiving evidence on behalf of the board, make such rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.
- (7) The board may at any time recommend the removal of any hearing officer upon filing with the Governor a full written statement of its reasons for such removal.
- (8) Upon recommendation to the board by the attorney for the Commonwealth, its cabinet, department, bureau, agency, or employee thereof, that a settlement has been reached between the parties to the claim, and upon approval by the board that the settlement is reasonable for all parties concerned, the agreed judgment or dismissal may be entered accordingly, even without a party's admission to liability.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 304, sec. 4, effective July 14, 2000. -- Amended 1986 Ky. Acts ch. 279, sec. 1, effective July 15, 1986; and ch. 499, sec. 3, effective July 15, 1986. -- Amended 1978 Ky. Acts ch. 15, sec. 1, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 326, sec. 2. -- Amended 1972 Ky. Acts ch. 234, sec. 1. - - Amended 1960 Ky. Acts ch. 25, sec. 1. -- Amended 1958 Ky. Acts ch. 52, sec. 1. -- Amended 1956 (1st Extra. Sess.) Ky. Acts ch. 7, Art. XIII, sec. 1. -- Amended 1950 Ky. Acts ch. 50, sec. 1. -- Created 1946 Ky. Acts ch. 189, secs. 1 and 3, par. 1.

Formerly codified as KRS 176.290.