

TENNESSEE CLAIMS COMMISSION

I. General Matters and Jurisdiction

1. The TCC is an administrative tribunal for claims against the state of Tennessee or its employees. It is attached to the Treasury Department for administrative purposes. The individual claims commissioners are autonomous in their judicial functions and are subject to the judicial ethics as apply to all other judges. The practice of law before them is subject to the same legal ethics that all attorneys are subject to when practicing before other courts. Tenn. Code Ann. §§ 9-8-301 and 302 (c).

2. *En banc*. Upon the request of two commissioners the commission may sit *en banc* to hear and decide any matter for which there is disagreement among two or more of the commissioners. Tenn. Code Ann. § 9-8-304 (d).

3. Powers and Duties.

a) determine claims against the state pursuant to Tenn. Code Ann. § 9-8-307.

b) Issue subpoenas, swear witnesses at hearings and other commission functions, effect discovery and issue protective orders and the like and seek enforcement pursuant to Tenn. Code Ann. § 4-5-311 (a) and (b).

c) Rule on motions and objections.

d) Regulate the course of proceedings.

e) Take official notice of state statutes and the rules and regulations of state agencies and any fact that can be judicially noticed.

f) Issue written findings of facts and opinions of law. Tenn. Code Ann. § 9-8-305.

g) The same authority extends to Administrative Law Judges when they are temporarily assigned to help relieve the congested docket for one of the commissioners. Tenn. Code Ann. § 9-8-309

4. Jurisdiction.

a) At Tenn. Code Ann. § 9-8-307 there is an extensive list of claims over which the TCC has jurisdiction.

b) In general, the TCC handles standard torts involving operation of vehicles and machinery, negligently created or maintained dangerous conditions on state-controlled real property, nuisances, legal or health malpractice, negligent care, custody and/or control of persons, personal property, and animals (but not wild animals), any aspect of the creation or maintenance of highways or bridges, workers' compensation claims by state employees (including National Guard), recovery of taxes paid under protest, libel and/or slander, claims under the Criminal Injuries Compensation Act, and certain contract actions.

II. Procedure:

A. A “Division of Claims Administration” was created as a division of the Department of the Treasury. Tenn. Code Ann. § 9-8-401. A claimant (plaintiff) must give written notice of the claim to this division as a condition precedent to recovery except for recovery of taxes.

B. The notice shall give the circumstances on which the claim is based including, but not limited to: the State Department, board, institution, agency, commission or other state entity that allegedly caused the injury; the time and place of the incident; and the nature of the claimant’s injury. Tenn. Code Ann. § 9-8-402.

C. Generally, the statute of limitations is the same as that as if the claim was being heard in courts for similar occurrences. Tenn. Code Ann. § 9-8-402 (b).

D. Workers’ comp has similar provisions, but not exactly the same, as are applicable in non-state related workers’ comp cases.

E. The Division of Claims Administration shall investigate every claim and try to honor or deny each claim within 90 days. If the DCA is unable to do so within 90 days, it will automatically transfer the claim to the TCC or will notify the plaintiff that it has 90 days to file a claim with the TCC. In a workers’ compensation claim, plaintiff also has the right to request a benefit review conference pursuant to Tenn. Code Ann. § 50-6-239 within 90 days of the date of the denial notice.

1. This court is not part of the third branch of government.
2. Its authority is derived from a statute, not the common law.
3. The judges are not elected, they are appointed for eight- year terms by the Governor.
4. Hearings by the commissioners on the contested issues follow TRCP and TRE except where the TCC has adopted different rules. Tenn. Code Ann. § 9-8-403

F. Tenn. Code Ann. § 9-8-403 provides for two dockets.

1. The Regular Docket. The Regular Docket is similar to dockets used by courts of record. The statute requires that a court reporter be used at all hearings on the Regular Docket. The Tennessee Rules of Civil Procedure and The Tennessee Rules of Evidence are used where applicable and the TCC has made rules and regulations to cover the differences between the TCC and courts.

2. Small Claims Docket, etc. Tenn. Code Ann. § 9-8-403. This can be used for claims that are equal to or less than the maximum dollar amount jurisdictional limit for General Sessions Courts in Davidson County, Tennessee. All evidence is presented by affidavit, no record of the trial is kept, and decisions by the TCC are final.

G. Appeals of the Regular Docket cases may be made directly to the Court of Appeals following the same rules of appellate procedure that govern trial court civil actions, tax appeals go directly to the Tenn. Sup Ct, and the WC claims shall be appealed pursuant to the procedure for other WC cases under Tenn. Code Ann. § 50-6-225 (e).

H. Removal of claims to Circuit or Chancery Court. Tenn. Code Ann. § 9-8-404 allows the transfer of any case to the appropriate Chancery or Circuit Court with venue by petition by either party with the approval of the Atty. Gen. and Reporter for the state. The commission may also transfer the action after the Commissioner has determined in writing that fair and complete resolution of all claims involved cannot be accomplished in administrative proceedings before the commission (a rare event). The transfers are limited to tort claims arising out of the same fact situation where much of the evidence to be presented would be admissible against the state and one or more additional defendants.

I. Actions against third parties for reimbursement Tenn. Code Ann. § 9-8-407. Whenever the acts or omissions of a third party are the proximate cause of an incident which results in the state paying a claim to the person injured or damaged by the actions of the third-party, then the state of Tennessee may sue the third-party for recovery of the amount paid by the state. If the injured party chooses to file suit against the third-party, then notice shall be given to the Atty. Gen.'s office along with the complaint, subsequent pleadings and a copy of the final judgment so that the state may pursue its subrogation interest.