

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H3/14/19

A Bill

HOUSE BILL 1661

5 By: Representative Gonzales
6 By: Senator T. Garner
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE ARKANSAS STATE CLAIMS
10 COMMISSION; CONCERNING CLAIMS MADE OR ACTIONS AGAINST
11 THE STATE; CONCERNING CLAIM AND ACTION PROCEDURES;
12 CONCERNING JURISDICTION OF THE ARKANSAS STATE CLAIMS
13 COMMISSION; AND FOR OTHER PURPOSES.
14
15

Subtitle

17 CONCERNING THE ARKANSAS STATE CLAIMS
18 COMMISSION; CONCERNING CLAIMS MADE OR
19 ACTIONS AGAINST THE STATE; CONCERNING
20 CLAIM AND ACTION PROCEDURES; CONCERNING
21 JURISDICTION OF THE ARKANSAS STATE CLAIMS
22 COMMISSION.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code Title 19, Chapter 10, Subchapter 1, is
28 amended to read as follows:
29

Subchapter 1 – General Provisions

31
32 19-10-101. Investigatory powers.

33 ~~(a)(1) The Director of the Department of Finance and Administration,~~
34 ~~as soon as the director learns of facts from which he or she concludes that a~~
35 ~~claim, other than for personal injury or death of a state employee, may be~~
36 ~~filed under this chapter against the state or any of its agencies,~~



1 ~~departments, or institutions, whether or not the claim has already been~~
2 ~~filed, is authorized and directed to investigate and take evidence concerning~~
3 ~~the claim~~ As soon as the Director of the Department of Finance and
4 Administration learns of facts from which the director concludes that a claim
5 may be filed under this chapter against the state or a state agency, the
6 director shall investigate and take evidence concerning the claim.

7 (2) The director's duty under subdivision (a)(1) of this section
8 applies whether or not the claim has already been filed at the time the
9 director learns the relevant facts upon which the director bases his or her
10 conclusion.

11 (3) Subdivision (a)(1) of this section does not apply to a claim
12 for personal injury or death of a state employee.

13 ~~(b) The director is, for this purpose, authorized to~~ To carry out his
14 or her duties under this section, the director may exercise all necessary
15 investigatory powers conferred upon him or her by this chapter.

16 (c) All information acquired by the director under this section shall
17 be made available to the Arkansas State Claims Commission ~~prior to~~ before the
18 hearing and determination ~~thereof~~ of the claim.

19
20 19-10-102. Legal representative for state agencies.

21 ~~(a)(1) The attorneys of any~~ An attorney for a state agency,
22 ~~department, or institution~~ against which a claim is filed shall represent
23 ~~their respective agencies~~ his or her respective state agency before the
24 Arkansas State Claims Commission.

25 (2) The Attorney General shall represent all ~~agencies,~~
26 ~~departments, and institutions which~~ state agencies that have no special legal
27 representatives before the Arkansas State Claims Commission.

28 (b) Legal representation for a public employer before the Workers'
29 Compensation Commission shall be in the manner prescribed in § 21-5-606.

30
31 19-10-103. State employee not to represent claimant.

32 ~~No full-time employee of the State of Arkansas or of its agencies, nor~~
33 ~~a member of any agency, shall appear before either the Arkansas State Claims~~
34 ~~Commission or the Workers' Compensation Commission as attorney or~~
35 ~~representative for any claimant in the presentation or prosecution of any~~
36 ~~claim filed under this chapter~~ The following shall not appear before the

1 Arkansas State Claims Commission or the Workers' Compensation Commission as
2 an attorney or representative for a claimant in the presentation or
3 prosecution of a claim filed under this chapter:

4 (1) A full-time employee of:

5 (A) The State of Arkansas; or

6 (B) A state agency; or

7 (2) A member of a state agency.

8
9 19-10-104. Claims for late or lost warrants.

10 ~~The Arkansas State Claims Commission, before~~ Before approving a claim
11 for reissuance of a state warrant ~~for purchase of commodities delivered or~~
12 ~~services performed~~ that has been lost or presented for payment after
13 expiration of the legal date for redemption, the Arkansas State Claims
14 Commission shall request proof from the Auditor of State that:

15 (1) the The original warrant was legally ~~cancelled~~ canceled
16 because of late redemption presentation; ~~or, in~~

17 (2) In the case of a lost warrant, an official warrant
18 cancellation procedure has been exercised.

19
20 19-10-105. Definitions.

21 As used in this chapter:

22 (1) "Insurer" means a person engaged as indemnitor, surety, or
23 contractor in the business of entering into contracts of insurance;

24 (2) "State agency" means a department, office, board,
25 commission, or institution of this state, including a state-supported
26 institution of higher education; and

27 (3) "Subrogation claim" means a claim filed with the Arkansas
28 State Claims Commission by an insurer or by its insured, or both, to recover
29 money paid or owed by an insurer to an individual under a contract of
30 insurance.

31
32 SECTION 2. Arkansas Code Title 19, Chapter 10, Subchapter 2, is
33 amended to read as follows:

34
35 Subchapter 2 – Arkansas State Claims Commission
36

1 19-10-201. Creation of commission – Members – Salary and expense
2 reimbursement.

3 (a)(1)(A) There is created a commission to be known as the “Arkansas
4 State Claims Commission”.

5 (B) ~~It~~ The commission shall consist of five (5) members to
6 be known as “commissioners”.

7 (C) ~~Two (2) members shall be attorneys and one (1) member~~
8 All commissioners shall be a public-spirited ~~person~~ persons of recognized
9 standing, and at least two (2) commissioners shall be attorneys licensed to
10 practice law in the state of Arkansas.

11 (2)(A)(i) The commissioners shall be appointed by the Governor
12 and confirmed by the Senate.

13 (ii) ~~They~~ The commissioners shall serve for terms of
14 five (5) years and thereafter until a successor has been appointed and
15 qualified.

16 (iii) A vacancy in the office of commissioner shall
17 be filled by the Governor, and that appointee shall hold office during the
18 unexpired portion of the term in which the vacancy occurred.

19 (B) ~~Members of the commission~~ Commissioners may be
20 appointed to and may serve successive terms.

21 (b) Before entering upon the duties of his or her office, each
22 commissioner shall take the constitutional oath of office.

23 (c)(1) A commissioner shall not hear or participate in the
24 consideration of ~~any~~ a claim in which he or she is interested personally,
25 either directly or indirectly.

26 (2) If for ~~reasons of conflicts~~ reason of conflict of interest a
27 commissioner disqualifies himself or herself or is absent for any reason from
28 hearing a particular claim, and if there are no other commissioners available
29 to hear the claim or action, the interested parties may request that a ~~third~~
30 special commissioner be appointed by the Governor to hear a the specific
31 claim or action.

32 (d) The commission shall elect from its membership a chair or two (2)
33 cochairs.

34 (e)(1)(A) Each commissioner shall receive ~~such~~ a salary as may be
35 prescribed by law and appropriated by the General Assembly.

36 (B) The salary shall be paid in the manner as are salaries

1 of other state officials and employees.

2 (2) In addition to salary, each ~~member~~ commissioner may receive
3 expense reimbursement in accordance with § 25-16-901 et seq.

4 (f) The commission is considered an adjudicatory body when the
5 commission applies or interprets:

6 (1) A substantive procedural rule; or

7 (2) Case law from an appellate court with jurisdiction to a
8 pending claim or action.

9

10 19-10-202. Director – Personnel.

11 (a) The ~~Executive Secretary of the Arkansas State Claims Commission or~~
12 ~~Clerk~~ Director of the Arkansas State Claims Commission shall be designated by
13 the Arkansas State Claims Commission and shall serve as both the ~~Director of~~
14 ~~the Arkansas State Claims Commission~~ Executive Secretary for and the Clerk of
15 the Arkansas State Claims Commission.

16 (b) The commission may appoint ~~such~~ other personnel as may be
17 necessary to effectuate the operations of the commission and as may be
18 authorized by biennial appropriation of the General Assembly.

19

20 19-10-203. Duties of director.

21 (a)(1) The duties of the Director of the Arkansas State Claims
22 Commission shall ~~maintain~~ include maintaining a system of filing and
23 adjudicating of claims or actions against the state.

24 (2) The director shall keep a docket of all claims or actions
25 filed and shall present them to the Arkansas State Claims Commission in the
26 chronological order of filing.

27 ~~(b)(3)~~ (3) The director ~~shall be~~ is responsible for maintenance and
28 custody of the docket, files, and records of the commission, including the
29 transcripts of testimony and exhibits, with all papers and requests filed in
30 proceedings, the minutes of all actions taken, and all of the commission's
31 findings, determinations, opinions, reports, orders, and rules, ~~and~~
32 ~~regulations.~~

33 ~~(e)(4)~~ (4) The director shall prepare the docket of claims or
34 actions to be considered by the commission and shall notify all parties of
35 record of the time, date, and place of hearing in advance when a claim or
36 action will be docketed for hearing before the commission.

1 ~~subdivision thereof, if the claim arises out of the performance of the~~
2 ~~claimant's military duty;~~

3 ~~(b) Claims against the Department of Community~~
4 ~~Correction for acts committed by a person while that person is subject to~~
5 ~~conditions of parole or probation under Arkansas law;~~

6 ~~(c) Claims against the Department of~~
7 ~~Correction for acts committed by inmates while on authorized release from the~~
8 ~~Department of Correction; or~~

9 ~~(d) Claims against the Division of Youth~~
10 ~~Services of the Department of Human Services for acts committed by juveniles~~
11 ~~released by the division, whether or not the juvenile is subject to~~
12 ~~conditions of aftercare or probation.~~

13 ~~(B) Claims solely addressing the receipting, processing,~~
14 ~~and reissuance of child support payments through the Arkansas Child Support~~
15 ~~Clearinghouse shall remain within the jurisdiction of the commission.~~

16 ~~(2)(A) The commission shall have jurisdiction only over those~~
17 ~~claims which are barred by the doctrine of sovereign immunity from being~~
18 ~~litigated in a court of general jurisdiction.~~

19 ~~(B) The commission shall have no jurisdiction over claims~~
20 ~~for state tax refunds under § 26-18-507, claims challenging tax assessments~~
21 ~~under § 26-18-406, and claims challenging tax laws under Arkansas~~
22 ~~Constitution, Article 16, § 13.~~

23 ~~(3)(A) The commission shall make no award for any claim which,~~
24 ~~as a matter of law, would be dismissed from a court of law for reasons other~~
25 ~~than sovereign immunity.~~

26 ~~(B) Specifically, if the facts of a given claim would~~
27 ~~cause the claim to be dismissed as a matter of law from a court of general~~
28 ~~jurisdiction, then the commission shall make no award on the claim.~~

29 ~~(c) The commission shall have jurisdiction over actions to contest~~
30 ~~eligibility, qualification, or election to serve as a member of the House of~~
31 ~~Representatives for the purpose of making a nonbinding recommendation thereon~~
32 ~~to that chamber of the General Assembly.~~

33 ~~(d) The commission shall have jurisdiction over claims to recover~~
34 ~~reasonable attorney's fees and other litigation expenses reasonably incurred~~
35 ~~by plaintiffs who substantially prevailed in actions under § 25-19-107~~
36 ~~against the State of Arkansas or a department, agency, or institution of the~~

1 ~~state under the standard described in § 25-19-107(d)(1).~~

2 (a) The Arkansas State Claims Commission has jurisdiction over:

3 (1) A claim or action that is barred by the doctrine of
4 sovereign immunity under Arkansas Constitution, Article 5, § 20, from being
5 litigated in a court of general jurisdiction, except as otherwise provided by
6 law;

7 (2) A claim or action that solely addresses the receipting,
8 processing, and reissuance of child support payments through the Arkansas
9 Child Support Clearinghouse;

10 (3) A claim or action to contest eligibility, qualification, or
11 election to serve as a member of the House of Representatives for the purpose
12 of making a nonbinding recommendation on the claim or action to that chamber
13 of the General Assembly; and

14 (4) A claim or action to recover reasonable attorney's fees and
15 other litigation expenses reasonably incurred by a plaintiff who
16 substantially prevails in an action under § 25-19-107 against the State of
17 Arkansas or a state agency under the standard described in § 25-19-107(d)(1).

18 (b) The commission has no jurisdiction over a claim or action:

19 (1) Against a municipality, county, school district, or any
20 other political subdivision of the state;

21 (2) Arising under:

22 (A) The Workers' Compensation Law, § 11-9-101 et seq.;

23 (B) The Department of Workforce Services Law, § 11-10-101
24 et seq.;

25 (C) The Arkansas Teacher Retirement System Act, Acts 1973,
26 No. 427;

27 (D) The Arkansas Public Employees' Retirement System Act,
28 Acts 1957, No. 177;

29 (E) The State Police Retirement System Act, § 24-6-201 et
30 seq.; or

31 (F) Laws providing for old age assistance grants, child
32 welfare grants, blind pensions, or any laws of a similar nature;

33 (3) Against the state for repayment of child support, except in
34 cases in which the underlying support order is set aside as void ab initio by
35 the court and the child support paid was retained by the state as
36 reimbursement for public assistance paid on behalf of a child;

1 (4) Brought by a member of the uniformed armed services against
2 the State Military Department, the State Militia, or any subdivision of the
3 State Militia, if the claim or action arises out of the performance of the
4 claimant's military duty;

5 (5) Brought against the Department of Community Correction for
6 acts committed by a person while that person is subject to conditions of
7 parole or probation under Arkansas law;

8 (6) Brought against the Department of Correction for acts
9 committed by inmates while on authorized release from the Department of
10 Correction;

11 (7) Brought against the Division of Youth Services of the
12 Department of Human Services for acts committed by juveniles released by the
13 division, whether or not the juvenile is subject to conditions of aftercare
14 or probation; or

15 (8) For state tax refunds under § 26-18-507, a claim or action
16 challenging tax assessments under § 26-18-406, or a claim or action
17 challenging tax laws under Arkansas Constitution, Article 16, § 13.

18 (c) The commission shall not make an award for a claim or action that,
19 as a matter of law, would be dismissed from a court of law for reasons other
20 than sovereign immunity.

21 19-10-205. ~~Rules and regulations~~ Rulemaking authority.

22 The Arkansas State Claims Commission ~~shall have the power to~~ may make
23 and alter or amend all rules ~~and regulations~~ governing the procedure before
24 ~~it which the commission that~~ may be deemed necessary and expedient for the
25 orderly discharge of ~~its~~ the commission's duties and ~~which shall not be that~~
26 are not inconsistent with ~~any of the provisions of~~ this subchapter or other
27 laws.

28
29 19-10-206. Meetings.

30 (a)(1) The Arkansas State Claims Commission shall meet at ~~such~~ the
31 time and place ~~as may be~~ designated by the Chair of the Arkansas State Claims
32 Commission, the cochaIRS of the Arkansas State Claims Commission, or the
33 Director of the Arkansas State Claims Commission.

34 (2) General meetings of the commission for the purpose of
35 hearing testimony and taking evidence ~~will~~ shall be held each month unless
36 scheduled differently by the chair, the cochaIRS, or the director.

1 (b) The commission may, ~~at its discretion,~~ hold a special ~~meetings~~
2 meeting of the commission upon request by the interested parties.

3 (c) The commission shall ~~traditionally~~ meet in Little Rock ~~at the~~
4 ~~State Capitol,~~ but may conduct hearings elsewhere in the state if the
5 commission ~~deems~~ determines that a hearing is ~~relative~~ relevant to business
6 before the commission.

7 (d)(1) A majority of the commissioners shall constitute a quorum, and
8 the concurrence of two (2) members of the commission shall be necessary for
9 the allowance or disallowance of any claims.

10 (2) A vacancy ~~shall~~ does not impair the right of the remaining
11 two (2) ~~members~~ commissioners assigned to a particular hearing to exercise
12 all powers of the full commission.

13
14 19-10-207. Power to examine.

15 (a) The Director of the Arkansas State Claims Commission or ~~any member~~
16 a commissioner of the Arkansas State Claims Commission ~~shall have~~ has the
17 authority to administer oaths, to subpoena witnesses, to examine any books,
18 documents, or records that may be relevant to any proceeding before the
19 commission, and to require the production of any such materials.

20 (b) In ~~actions~~ an action to contest the election of a member of the
21 House of Representatives, the commission's general authority to subpoena
22 witnesses and documents shall specifically include the authority to subpoena
23 election officers and to subpoena any ~~and all~~ ballots cast or other election
24 records in the election at issue.

25 (c) If ~~any~~ a claimant or witness to whom an oath has been administered
26 as provided ~~in~~ under this section ~~shall swear~~ swears falsely to ~~any~~ a fact
27 material to the investigation of a claim, ~~such~~ the false swearing shall
28 constitute perjury, and the ~~guilty party~~ person swearing falsely shall be
29 subject to prosecution ~~therefor~~.

30 (d)(1)(A) If ~~any~~ a person or entity ~~shall fail or refuse~~ fails or
31 refuses to obey ~~any~~ a commission subpoena or order or ~~shall refuse~~ refuses to
32 testify or produce any books, papers, or other documents, the commission may
33 present its petition setting forth the facts to any court of record.

34 (B) ~~Thereupon, in a proper case,~~ After being presented
35 with a petition under this subsection, the court of record shall issue its
36 subpoena to the person or entity, requiring his or her or its attendance

1 before the court of record to testify or produce ~~such the~~ books, papers, ~~and~~
2 or documents as may be deemed necessary and pertinent.

3 (C) ~~Any~~ A person or entity failing or refusing to obey the
4 subpoena or order of the court of record may be proceeded against in the same
5 manner as for refusal to obey any other subpoena, as provided by the Arkansas
6 Rules of Civil Procedure.

7 (2) The commission ~~shall be entitled to the services of~~ may use
8 the Attorney General and the services of the prosecuting attorneys for the
9 county and district in which the enforcement of a subpoena under this
10 subsection is required.

11
12 19-10-208. Complaints.

13 (a)(1) ~~All proceedings to enforce claims~~ A proceeding under this
14 subchapter shall be commenced by a verified complaint, of which the original
15 and three (3) copies shall be filed with the Director of the Arkansas State
16 Claims Commission.

17 (2) The party filing the claim ~~should~~ or action shall be
18 designated as the claimant, and the State of Arkansas, state agency, or
19 applicable agent of the state shall be designated as the respondent.

20 (b) ~~The~~ Unless otherwise provided for under this section, the
21 complaint shall state concisely the facts upon which the claim or action is
22 based and shall set forth:

23 (1) The address of the claimant and the claimant's attorney, if
24 any;

25 (2) The time and place of the circumstances giving rise to the
26 claim or action;

27 (3) The state ~~department, agency, or institution in which the~~
28 ~~claim originated~~ whose action or inaction led to the origination of the claim
29 or action;

30 (4) The amount claimed or relief sought; and

31 (5) All averments of fact necessary to state a cause of action
32 against a ~~private person or corporation~~ the state under this subchapter.

33 (c) If the claim or action is based upon a contract or other
34 instrument in writing, a copy of the contract or instrument in writing shall
35 be attached to the complaint and the copies filed with the director.

36 (d)(1) ~~In the complaint the~~ The claimant shall state in the complaint

1 ~~whether his or her claim has been presented to any state department, or~~
2 ~~officer thereof, and if so, when presented, to whom, and what action was~~
3 ~~taken thereon.~~

4 ~~(2) The claimant shall further state whether he or she has~~
5 ~~received any payment on account of such the claim or action and, if so, the~~
6 ~~amount received.~~

7 ~~(3)(A)(2)(A) The claimant also shall state whether ~~any other~~~~
8 ~~another person or ~~corporation~~ business entity has ~~any~~ an absolute or~~
9 ~~contingent interest in his or her claim or action.~~

10 (B) If ~~any~~ a person or corporation is interested in the
11 claim, the claimant shall state the name and address of that person or
12 corporation having the interest, the nature of the interest, and how and when
13 it was acquired.

14 (e) If the claimant is an executor, administrator, guardian, or other
15 representative acting under judicial appointment, a duly certified copy of
16 the record of appointment shall be filed with the complaint.

17 (f)(1) A claimant who is an inmate in the Department of Correction or
18 the Department of Community Correction at the time the claim or action is
19 filed is limited to no more than:

20 (A) Five (5) pages of written factual allegations and
21 legal argument in his or her complaint; and

22 (B) Five (5) additional pages of exhibits to accompany his
23 or her complaint.

24 (2)(A) An inmate filing a claim or action may file a motion to
25 allow him or her to file additional pages of factual allegations, argument,
26 or exhibits in excess of the limitations under subdivision (f)(1) of this
27 section.

28 (B) A motion filed under this subdivision (f)(2) may be
29 granted only if the commissioners of the Arkansas State Claims Commission
30 find that the inmate needs the additional pages to fully explain his or her
31 claim or action or if the claim or action is sufficiently complex to warrant
32 additional pages.

33 (3)(A) If an inmate files a claim or action that exceeds the
34 page limitations under this subsection, the commission shall:

35 (i) Assign the inmate's claim a docket number; and

36 (ii) Consider the inmate's claim filed, but mail the

1 inmate's complaint and any attached exhibits back to him or her and give the
2 inmate forty-five (45) days to:

3 (a) Resubmit his or her complaint and any
4 attached exhibits in compliance with this subsection; or

5 (b) File a motion requesting permission to
6 file a complaint and accompanying exhibits that exceed the page limitations
7 under this subsection.

8 (B) The forty-five-day time period under this subsection
9 is excludable time in calculating the statute of limitations for the inmate's
10 claim or action.

11 (C) The commission may dismiss an inmate's complaint
12 without prejudice if the inmate fails to:

13 (i) Resubmit a complaint and attached exhibits that
14 meet the page limitation requirements of this subsection; or

15 (ii) File a motion requesting permission to file a
16 complaint and attached exhibits that exceed the page limitation requirements
17 of this subsection.

18 (D)(i) If the commission grants a motion for a complaint
19 and accompanying exhibits that exceed the page limitation requirements of
20 this subsection, the commission shall set out in the order granting the
21 motion the revised timeline for the inmate to file his or her complaint and
22 accompanying exhibits.

23 (ii) The commission may set a revised limit on the
24 number of pages an inmate's complaint and accompanying exhibits may be.

25
26 19-10-209. Time for filing.

27 ~~No claim may be considered and allowed by the~~ The Arkansas State Claims
28 Commission shall not consider or allow a claim or action unless ~~it~~ the claim
29 or action has been filed with the Director of the Arkansas State Claims
30 Commission as provided by this subchapter within the period allowed by law
31 for the commencement of an action for the enforcement of the same type of
32 claim ~~against a private person or action.~~

33
34 19-10-210. Notice and hearings.

35 (a)(1) The Director of the Arkansas State Claims Commission shall
36 notify each claimant and also the head of each state agency, ~~department, or~~

1 ~~institution~~ against which a claim or action is filed of the time and place
2 set for ~~the a hearing thereof~~ on the claim or action, if a hearing on the
3 matter is set by the Arkansas State Claims Commission.

4 (2) A party to a claim or action is not entitled to a hearing as
5 a matter of law but may request a hearing before the commission.

6 ~~(b)(1) In conducting hearings, the Arkansas State Claims Commission~~
7 ~~shall not be~~ The commission is not bound by the formal rules of evidence and
8 shall conduct all hearings publicly and in a fair and impartial manner,
9 giving the parties full opportunity for presentation of evidence, cross-
10 examination of witnesses, and argument.

11 (2) To the extent practicable, the commission shall adopt the
12 procedure used by the circuit courts, and ~~its~~ a hearing before the commission
13 shall be conducted in a judicial manner.

14 (c) Hearings on a motion filed by a party shall be set:

15 (1) Upon request of one (1) of the parties; and

16 (2) If the commission finds that oral argument or witness
17 testimony, or both, will benefit the commission in deciding on the motion.

18
19 19-10-211. Appeals of decisions - Jurisdiction - Time periods to file.

20 ~~(a)(1) A decision of the Arkansas State Claims Commission may be~~
21 ~~appealed only to the General Assembly.~~

22 ~~(b) When any party to a claim before the commission is aggrieved by~~
23 ~~the decision of the commission concerning such claim, the aggrieved party~~
24 ~~may, on a form designed by the commission:~~

25 ~~(1) Within forty (40) days after the decision is rendered, file~~
26 ~~with the commission a notice of appeal of the decision to the General~~
27 ~~Assembly; or~~

28 ~~(2) Within forty (40) days after the decision is rendered, file~~
29 ~~with the commission a motion for reconsideration requesting the commission to~~
30 ~~reconsider its decision; and~~

31 ~~(3) Within twenty (20) days after commission reconsideration or~~
32 ~~denial of the motion for reconsideration, file with the commission a notice~~
33 ~~of appeal of the decision to the General Assembly. Within forty (40) days~~
34 after the Arkansas State Claims Commission issues a final order on a claim or
35 action before the commission, a party to the claim or action may file with
36 the commission a:

1 (A) Notice of appeal of the final order to the General
2 Assembly; or

3 (B)(i) Motion requesting that the commission reconsider
4 its final order.

5 (ii)(a) If a motion for reconsideration is denied, a
6 party may file with the commission a notice of appeal of the claim to the
7 General Assembly within twenty (20) days of entry of the order denying the
8 motion for reconsideration.

9 (b) Subdivision (a)(1)(B)(ii)(a) of this
10 section applies only if the commission's reconsideration constitutes a final
11 order.

12 (2) The commission shall advise parties of the right of appeal
13 under this section when the commission notifies the parties of the
14 commission's final order.

15 (3) The General Assembly has exclusive jurisdiction to hear
16 appeals under this section.

17 ~~(e)(b)(1)~~ The commission shall, in a timely manner, timely notify the
18 ~~Legislative Council or the appropriate committee of the~~ General Assembly and
19 all parties to the claim or action when ~~any~~ a notice of appeal to the General
20 Assembly is filed with the commission.

21 ~~(d) When the commission notifies parties of a decision of the~~
22 ~~commission, it shall advise the parties of the right of appeal.~~

23 (2)(A) Notice provided to the General Assembly under subdivision
24 (b)(1) of this section terminates the commission's jurisdiction over the
25 claim or action.

26 (B) Unless ordered to do so by the General Assembly, the
27 commission is prohibited from doing anything further on the claim or action
28 aside from ordinary ministerial duties.

29 (3) The commission shall regain jurisdiction over the claim or
30 action if, in consideration of an appeal of a final order, the General
31 Assembly sends the claim or action back to the commission:

32 (A) For further proceedings; or

33 (B) To notify the claimant that the award has been upheld,
34 reversed, or amended.

35 (c) The General Assembly shall not overturn:

36 (1) A factual finding or determination of law absent evidence

1 that the commission's finding or determination is clearly erroneous;

2 (2) A nonnegotiated monetary award of damages by the commission
 3 unless the commission's award is unsupported by a preponderance of the
 4 evidence; or

5 (3) An award of damages that was negotiated by the parties and
 6 approved by the commission unless the award of damages is clearly inequitable
 7 considering the:

8 (A) Alleged facts of the claim or action;

9 (B) Available defenses to the claim or action;

10 (C) Complexity of the claim or action;

11 (D) Costs of litigation for the claim or action for all
 12 parties; and

13 (E) Difficulty of any party in proving or defending the
 14 claim or action.

15
 16 19-10-212. Reports of state agency liability — Definition.

17 ~~(a)(1) As used in this section, "state agency" means a department,~~
 18 ~~office, board, commission, or institution of this state, including a state-~~
 19 ~~supported institution of higher education.~~

20 ~~(2)~~ When a state agency admits liability to a claim filed with
 21 the Arkansas State Claims Commission, the state agency shall file a written
 22 report of the claim with the Litigation Reports Oversight Subcommittee of the
 23 Legislative Council if the claim:

24 ~~(A)(1)~~ Involves a contract with the state agency; or

25 ~~(B)(2)~~ Exceeds fifteen thousand dollars (\$15,000).

26 ~~(3)(b)~~ The state agency shall include in its report a concise
 27 statement of facts with an explanation of the state agency's liability.

28 ~~(4)(c)~~ The state agency shall file its report within thirty (30) days
 29 after the claim or action has been adjudicated and a final order has been
 30 issued by the ~~Arkansas State Claims Commission~~ commission.

31 ~~(b) The Office of the Arkansas Lottery shall file its report under~~
 32 ~~subsection (a) of this section with the Legislative Council.~~

33
 34 19-10-213. Agency State agency to pay claim.

35 ~~(a) In the event that any claim authorized herein~~ When a claim or
 36 action is determined to be a valid claim or action against the state under

1 this chapter and the claim or action is to be paid from funds not in the
2 State Treasury, the ~~Clerk~~ Director of the Arkansas State Claims Commission
3 shall notify the state agency against which the claim or action is to be
4 charged of the amount of ~~such claims~~ the claim or action.

5 (b) Upon receipt of ~~such~~ the notification under subsection (a) of this
6 section, the state agency shall ~~forthwith~~ deliver a check to the ~~clerk~~
7 director who shall deposit the ~~same~~ funds as a nonrevenue receipt into the
8 Miscellaneous Revolving Fund from which ~~he or she~~ the director shall disburse
9 the amount of the claim or action to the claimant.

10
11 19-10-214. Effect on liens.

12 (a) Arkansas State Claims Commission awards are state property and
13 therefore:

14 (1) ~~liens may~~ Liens do not attach to commission awards; ~~and~~

15 (2) ~~nor may an award be assigned~~ A commission award is not
16 assignable.

17 (b)(1) If the commission and the General Assembly approve appeals or
18 claims or actions above ~~seven thousand five hundred dollars (\$7,500)~~ fifteen
19 thousand dollars (\$15,000) and name as payees, in addition to the claimant,
20 other individuals or entities who would normally have liens in a court of
21 law, other than insurance company ~~claims for~~ subrogation claims, then the
22 commission may deposit the amount approved ~~in~~ into the registry of the
23 Pulaski County Circuit Court.

24 (2) After reasonable notice to the claimant and any named
25 payees, the court shall establish the validity and priority to the moneys
26 upon petition of the claimant or any named payee.

27
28 19-10-215. Restrictions on awards.

29 (a) With the exception of death and disability benefit claims paid
30 under § 21-5-701 et seq., ~~no award may be paid~~ the Arkansas State Claims
31 Commission shall not pay an award in excess of fifteen thousand dollars
32 (\$15,000).

33 (b) If ~~the~~ an award is greater than fifteen thousand dollars
34 (\$15,000), ~~the claim shall be referred~~ the commission shall refer the claim
35 or action to the General Assembly for approval and, if approved, an
36 appropriation.

1
2 19-10-216. ~~Commission decisions~~ Final orders – Findings of fact and
3 conclusions of law required.

4 (a)(1) When the Arkansas State Claims Commission dismisses a claim or
5 action with a final order or issues a final ~~adjudication~~ order of a claim or
6 action on the merits, the commission shall set forth specific findings of
7 fact and conclusions of law to support its decision.

8 (2) Citations to a party's motion or argument do not fulfill the
9 requirements of this subsection unless otherwise supported by an explanation,
10 with particularity, as to why the party's motion or argument is determinative
11 to the outcome of the claim or action.

12 (3) When the commission bases its decision on a specific rule of
13 civil procedure, rule of evidence, statute, or controlling appellate court
14 decision, the commission shall cite the rule, statute, or appellate court
15 decision.

16 (4) ~~A claim will not be accepted by the~~ The General Assembly
17 shall not accept a claim or action on appeal ~~that~~ when the claim or action
18 has as its final adjudication findings of fact and conclusions of law that do
19 not comply with this section.

20 (b) Failure to comply with this section shall result in the General
21 Assembly's sending the claim or action back to the commission for
22 ~~reconsideration~~ further action until the requirements of subsection (a) of
23 this section are met.

24 (c) A claim or action filed by a person who at the time of filing is
25 an inmate of the Department of Correction is exempted from the requirements
26 of this section.

27 (d) The findings of fact and conclusions of law contained in a final
28 order under this section are presumed to be correct for the purposes of
29 review by or appeal to the General Assembly.

30
31 19-10-217. Motions – Grounds required to preserve for appeal.

32 (a) If the Arkansas State Claims Commission denies a motion, the party
33 whose interests were adversely affected by the commission's denial may appeal
34 the denial under § 19-10-211 so long as the legal issue or factual issue in
35 dispute was preserved for appeal with a specific ruling, in writing, by the
36 commission.

1 (b)(1)(A) It is the responsibility of the party whose interests were
2 adversely affected by the commission's ruling on the motion to ask the
3 commission to file a written order denying the motion if the commission had
4 previously denied the motion and has not already filed a written order on the
5 motion before the commission issues its final order.

6 (B) If a party requests that the commission file a written
7 order denying a motion under this subsection, the commission shall do so
8 before issuing a final order.

9 (2) If the basis of a ground for appeal by a party is that a
10 motion was erroneously granted, a filed written order by the commission is
11 not necessary.

12
13 19-10-218. Interlocutory appeals prohibited.

14 (a) A party shall not file, and the Arkansas State Claims Commission
15 shall not entertain, an interlocutory appeal of a legal issue.

16 (b)(1) The Director of the Arkansas State Claims Commission shall
17 reject an interlocutory motion.

18 (2) An interlocutory motion shall not be included in the record
19 of the case.

20 (c)(1) All legal issues or factual issues in dispute that have been
21 raised and addressed by the commission may be included in a party's appeal of
22 the commission's final order.

23 (2) The General Assembly shall not consider on appeal a legal
24 issue or a factual issue in dispute that has not been raised and addressed by
25 the commission or otherwise preserved for appeal.

26
27 19-10-219. Small claims adjudication.

28 (a)(1) The Arkansas State Claims Commission may establish a small
29 claims adjudication process for claims or actions seeking one thousand
30 dollars (\$1,000) or less.

31 (2) The small claims adjudication process shall provide that
32 claims or actions be given docket priority, and the use of informal
33 discovery, hearings utilizing teleconferencing or other off-site
34 communications technology, and relaxed procedural rules are encouraged to
35 facilitate efficient and timely resolution.

36 (b)(1) A claim or action seeking one thousand dollars (\$1,000) or less

1 may be:

2 (A) Assigned to be heard by one (1) commissioner of the
3 commission; and

4 (B) Decided by the commissioner on the basis of the
5 pleadings alone.

6 (2) If a claimant objects to having the claim or action heard as
7 a small claims adjudication under this section, the claimant may request that
8 the claim or action be heard in the usual manner for similar claims or
9 actions.

10 (c) Before a proposed written final order of a small claims
11 adjudication under this section is considered final for the purposes of award
12 or appeal, the proposed written final order shall be reviewed by a panel
13 consisting of:

14 (1) The commissioner of the commission assigned to the claim or
15 action; and

16 (2) Two (2) other commissioners of the commission.

17
18 19-10-220. Special masters authorized.

19 (a) The Arkansas State Claims Commission may appoint a special master
20 with specialized knowledge and skill to assist the commission in achieving a
21 more timely resolution of complex litigation arising from a claim or action.

22 (b)(1) All or part of a special master's findings may be included as
23 part of or in addition to a commission's final order.

24 (2) The special master's findings, if disputed by a party, may
25 be raised on appeal.

26
27 19-10-221. Abuse of process by litigants.

28 An inmate in the Department of Correction or the Department of
29 Community Correction who has filed more than three (3) unsuccessful claims or
30 actions under this subchapter within a period of two (2) years may have his
31 or her subsequent claims or motions dismissed by the Arkansas State Claims
32 Commission upon receipt as abuse of process, for one (1) year from the date
33 of dismissal of the inmate's third unsuccessful claim.

34 19-10-222. Corporate or business entity to be represented by attorney.

35 A corporate or business entity created under the laws of this state or
36 another state shall be represented at all times in a claim or action under

1 this subchapter by an attorney licensed to practice law in this state.

2
3 19-10-223. Failure to exhaust available state or administrative
4 remedy.

5 The Arkansas State Claims Commission may dismiss a claim or action
6 without prejudice on the commission's own motion if the claimant has failed
7 to submit with the claimant's initial complaint or claim filing documentation
8 that the claimant has exhausted all available state or administrative
9 remedies.

10
11 SECTION 3. Arkansas Code § 21-5-704 is amended to read as follows:

12 21-5-704. Payment of claim to covered public employees, their
13 designated beneficiaries, or their survivors – Funds.

14 (a)(1)(A) ~~The state shall pay to the designated beneficiary or, if~~
15 ~~there is no designated beneficiary, then to the surviving spouse or surviving~~
16 ~~children under twenty-two (22) years of age or, if there is no surviving~~
17 ~~spouse or surviving children under twenty-two (22) years of age, then to the~~
18 ~~surviving children twenty-two (22) years of age or older or to the surviving~~
19 ~~parents~~ beneficiaries of any covered public employee who is killed in the
20 official line of duty, the sum of fifty thousand dollars (\$50,000) with the
21 following requirements for distribution of the award:

22 (i) If the covered public employee has a designated
23 beneficiary or beneficiaries, the designated beneficiary or beneficiaries are
24 entitled to the award, in whatever percentage indicated by the covered public
25 employee;

26 (ii) Subject to subdivision (a)(1)(A)(iii) of this
27 section, if the covered public employee has no designated beneficiary or
28 beneficiaries, the award shall go to the covered public employee's surviving
29 spouse;

30 (iii) If the covered public employee has a surviving
31 spouse and surviving dependent children, the surviving spouse is entitled to
32 fifty percent (50%) of the award, and the surviving dependent children are
33 entitled to the other fifty percent (50%) of the award in equal shares; or

34 (iv) If the covered public employee is unmarried at
35 the date of his or her death:

36 (a) The covered public employee's surviving

1 dependent children split the award in equal shares;

2 (b) The covered public employee's children
3 split the award in equal shares if there are no surviving dependent children;
4 or

5 (c) The covered public employee's surviving
6 parents split the award in equal shares if there are no surviving children.

7 (B) In addition thereto, the municipality that employed
8 the police officer or firefighter shall, upon certification of the amount by
9 the police or fire department, pay ~~to the designated beneficiary or, if there~~
10 ~~is no designated beneficiary, then to the surviving spouse or surviving~~
11 ~~children under twenty-two (22) years of age or, if there is no surviving~~
12 ~~spouse or surviving children under twenty-two (22) years of age, then to the~~
13 ~~surviving children twenty-two (22) years of age or older or to the surviving~~
14 ~~parents~~ beneficiaries of the deceased police officer or firefighter an
15 allowance for all sick leave, vacation, or other leave time accumulated to
16 the credit of the police officer or firefighter at the time of his or her
17 death, with the following requirements for distribution of the allowance:

18 (i) If the deceased police officer or firefighter
19 has a designated beneficiary or beneficiaries, the designated beneficiary or
20 beneficiaries are entitled to the allowance, in whatever percentage indicated
21 by the covered public employee;

22 (ii) Subject to subdivision (a)(1)(B)(iii) of this
23 section, if the deceased police officer or firefighter has no designated
24 beneficiary or beneficiaries, the allowance shall go to the deceased police
25 officer's or firefighter's surviving spouse;

26 (iii) If the deceased police officer or firefighter
27 has a surviving spouse and surviving dependent children, the surviving spouse
28 is entitled to fifty percent (50%) of the allowance and the surviving
29 dependent children are entitled to the other fifty percent (50%) of the
30 allowance in equal shares; or

31 (iv) If the deceased police officer or firefighter is
32 unmarried at the date of his or her death:

33 (a) The deceased police officer's or
34 firefighter's surviving dependent children split the allowance in equal
35 shares;

36 (b) The deceased police officer's or

1 firefighter's children split the allowance in equal shares if there are no
2 surviving dependent children; or

3 (c) The deceased police officer's or
4 firefighter's surviving parents split the allowance in equal shares if there
5 are no surviving children.

6 (2)(A) ~~In the event~~ If a covered public employee ~~shall suffer~~
7 suffers an injury while engaged in the performance of official duties
8 resulting in his or her total and permanent disability, the disabled covered
9 public employee shall be entitled to the sum of ten thousand dollars
10 (\$10,000) from the State of Arkansas upon establishing proof of the total and
11 permanent disability.

12 (B) Proof of total and permanent disability shall be
13 established by offering evidence that the covered public employee was unable
14 to work in the employment position covered by this subchapter for a period of
15 more than one (1) year or that the covered public employee received a
16 disability rating in excess of twenty-five percent (25%) from the Workers'
17 Compensation Commission.

18 (b)(1) All allowances as provided for in this section for the
19 designated beneficiary, surviving spouse, surviving children, or surviving
20 parents of covered public employees killed while performing official duties,
21 or allowances provided covered public employees who are totally and
22 permanently disabled while performing official duties, shall be paid totally
23 from state funds appropriated therefor.

24 (2)(A) Except as provided in subdivision (b)(2)(B) of this
25 section, the funds shall not be reimbursed by transfer or charging the funds
26 against any state funds allocated for turnback to cities or counties or
27 distributed to the State Highway and Transportation Department Fund or
28 distributed to any Department of Correction fund account or any other state
29 department agency fund account other than the Arkansas State Claims
30 Commission fund accounts and the Miscellaneous Revolving Fund or state funds
31 levied for firefighters, police officers, employees of the Arkansas
32 Department of Transportation, and employees of the Department of Correction
33 for pension purposes.

34 (B)(i) Twenty-five thousand dollars (\$25,000) of the fifty
35 thousand dollars (\$50,000) provided in subdivision (b)(2)(A) of this section
36 shall be paid by the appropriate state department agency fund account.

1 (ii) The appropriate state department agency shall
2 transfer the necessary funds to the Arkansas State Claims Commission fund
3 accounts for payment.

4 (c) It is the intent of this subchapter that twenty-five thousand
5 dollars (\$25,000) of the total obligation of providing the benefits provided
6 by this subchapter, even though the funds are to be administered by the
7 Arkansas State Claims Commission, are to be defrayed from state funds and are
8 not to be charged against, or recovered against, any turnback moneys due the
9 cities or counties of this state or allocated to the state highway system of
10 this state or to the Department of Correction or any other state department
11 agency fund account other than the Arkansas State Claims Commission fund
12 accounts and the Miscellaneous Revolving Fund.

13 (d)(1) A person who claims a benefit under this section to which the
14 beneficiaries of a deceased person are entitled shall submit a notarized
15 affidavit provided by the Arkansas State Claims Commission that:

16 (A) Lists all known surviving children of the decedent,
17 their respective ages, last known addresses, and contact information; and

18 (B) Discloses the existence of any last will and testament
19 of the decedent.

20 (2) If a person who claims a benefit fails to list all known
21 surviving children as required by subdivision (d)(1)(A) of this section, the
22 Arkansas State Claims Commission may require that the person return the
23 benefit to the Arkansas State Claims Commission for further proceedings.

24 (e) As used in this section, "surviving dependent children" means
25 children who have not yet reached the age of majority as of the date of the
26 award and children who have a legal incapacity that renders them dependent
27 even after reaching the age of majority.

28
29 SECTION 4. Arkansas Code § 21-5-705 is amended to read as follows:

30 21-5-705. Payment of claim to designated beneficiaries or survivors of
31 certain specified public employees killed in the line of duty – Funds.

32 (a) The state shall pay the additional sum of one hundred fifty
33 thousand dollars (\$150,000) to the ~~designated beneficiary, surviving spouse,~~
34 ~~or surviving children under twenty-two (22) years of age~~ qualified recipient
35 or recipients of a:

36 (1) Police officer, wildlife enforcement officer, commissioned

1 law enforcement officer or emergency response employee of the State Parks
2 Division of the Department of Parks and Tourism, Department of Community
3 Correction employee, employee of the Department of Correction, jailer, or
4 coroner whose death occurred:

5 (A) After January 1, 2003; and

6 (B) Either:

7 (i) In the official line of duty as the result of a
8 criminal or negligent action of another person or persons or as the result of
9 the engagement in exceptionally hazardous duty; or

10 (ii) In the line of duty while the officer or
11 employee was performing emergency medical activities;

12 (2) Firefighter, emergency medical technician, or employee of
13 the Arkansas Forestry Commission killed after July 1, 1987, while responding
14 to, engaging in, or returning from a fire, a rescue incident, a hazardous
15 material or bomb incident, an emergency medical activity, or simulated
16 training thereof; and

17 (3)(A)(i) Firefighter killed in the line of duty after January
18 1, 2012, including death from leukemia, lymphoma, mesothelioma, and multiple
19 myeloma and cancer of the brain, digestive tract, urinary tract, liver, skin,
20 breast, cervix, thyroid, prostate, testicle, or a cancer that has been found
21 by research and statistics to show higher instances of occurrence in
22 firefighters than in the general population, if he or she was exposed to a
23 known carcinogen as determined by the Department of Health with consideration
24 to the findings of the International Agency for Research on Cancer while in
25 the official line of duty.

26 (ii) Subdivision (a)(3)(A)(i) of this section does
27 not include a firefighter who was diagnosed with cancer prior to the start of
28 firefighter service.

29 (B) A death benefit under subdivision (a)(3)(A) of this
30 section shall be limited to:

31 (i) A maximum of one hundred fifty thousand dollars
32 (\$150,000) per individual death, including educational benefits provided in §
33 6-82-501 et seq.; and

34 (ii) A firefighter who is under sixty-eight (68)
35 years of age.

36 (C)(i) The Firefighter Benefit Review Panel is created for

1 the purpose of making recommendations to the Arkansas State Claims Commission
2 regarding determinations of death benefits under subdivision (a)(3)(A) of
3 this section for deaths associated with cancer.

4 (ii) The panel shall consist of the following seven
5 (7) individuals to be appointed by the Governor:

6 (a) One (1) licensed oncologist;

7 (b)(1) Two (2) firefighters paid by the state,
8 a county, or a municipality.

9 (2) One (1) firefighter under
10 subdivision (a)(3)(C)(ii)(b)(1) of this section shall be appointed from a
11 list of names submitted by the Arkansas Professional Fire Fighters
12 Association;

13 (c)(1) Two (2) volunteer firefighters.

14 (2) One (1) firefighter under
15 subdivision (a)(3)(C)(ii)(c)(1) of this section shall be appointed from a
16 list of names submitted by the Arkansas State Firefighters Association;

17 (d) One (1) fire chief who may be appointed
18 from a list of names submitted by the Arkansas Association of Fire Chiefs;
19 and

20 (e) One (1) citizen with experience in either
21 cancer and healthcare professions or firefighter relations.

22 (iii)(a) Panel members shall serve a term of four
23 (4) years.

24 (b) In the event of a vacancy in the
25 membership of the panel, the Governor shall appoint a person meeting the
26 applicable eligibility requirements of the vacated position to fill the
27 vacancy for the remainder of the unexpired term.

28 (iv)(a) The panel shall hold at least one (1)
29 regular meeting in each calendar year at a time and place determined by the
30 panel.

31 (b) Special meetings may be called at the
32 discretion of the chair selected under subdivision (a)(3)(C)(v) of this
33 section.

34 (v) The panel shall select a chair and vice chair
35 during the first annual meeting of each four-year term.

36 (vi) Four (4) members of the panel ~~shall constitute~~

1 constitute a quorum to transact business.

2 (vii) The members of the panel may receive expense
3 reimbursement in accordance with § 25-16-901 et seq.

4 (viii) The panel shall:

5 (a) Render advisory opinions and reports
6 concerning research and statistics that show higher instances of cancer among
7 firefighters;

8 (b) Review claims for death benefits of
9 firefighters who have died of cancer; and

10 (c) Make recommendations to the Arkansas State
11 Claims Commission on death benefit awards under subdivision (a)(3)(A) of this
12 section.

13 (D) This section:

14 (i) ~~Shall not be applied~~ Does not apply to any other
15 benefits granted by the state, a county, a city, or a municipality; and

16 (ii) Does not grant a cause of action against the
17 state, a county, a city, or a municipality.

18 (b) In addition to the benefits provided for in subsection (a) of this
19 section, the state shall pay the additional sum of twenty-five thousand
20 dollars (\$25,000) to ~~the designated beneficiary, surviving spouse, or~~
21 ~~surviving children under twenty two (22) years of age~~ qualified recipient of
22 any police officer, wildlife enforcement officer of the Arkansas State Game
23 and Fish Commission, commissioned law enforcement officer of the State Parks
24 Division of the Department of Parks and Tourism, Department of Community
25 Correction employee, or employee of the Department of Correction:

26 (1) Who was wearing a bulletproof vest approved by the Director
27 of the Department of Arkansas State Police; and

28 (2) Whose death occurred:

29 (A) After July 1, 1989; and

30 (B) In the official line of duty as the result of a
31 criminal action of another person or persons.

32 (c)(1) Except as provided in subdivision (c)(2) of this section, the
33 benefits shall be paid totally from state funds appropriated for these
34 benefits. The funds shall not be reimbursed by a transfer or charging the
35 funds against any state funds allocated for turnback to cities or counties or
36 distributed to any other state department agency fund account other than the

1 Arkansas State Claims Commission fund accounts and the Miscellaneous
2 Revolving Fund.

3 (2)(A) Seventy-five thousand dollars (\$75,000) of the one
4 hundred fifty thousand dollars (\$150,000) provided in subdivision (c)(1) of
5 this section shall be paid by the appropriate state department agency fund
6 account.

7 (B) The appropriate state department agency shall transfer
8 the necessary funds to the Arkansas State Claims Commission fund accounts for
9 payment.

10 (d) The additional benefits provided in this section shall be paid to
11 the ~~designated beneficiary, surviving spouse, surviving children, or~~
12 ~~surviving parents~~ qualified recipient in ~~three (3)~~ four (4) equal annual
13 payments, the first of which shall be paid immediately upon entry of the
14 order awarding the benefits, and the next three (3) payments shall be paid in
15 July of the next three fiscal ~~year~~ years after the date of the original order
16 of the Arkansas State Claims Commission establishing entitlement to
17 additional payments ~~and annually thereafter~~.

18 (e) Determination of eligibility for the additional payments provided
19 in this section shall be made by the Arkansas State Claims Commission in
20 accordance with Arkansas State Claims Commission rules and procedures.

21 (f)(1) A person who claims a benefit as a qualified recipient under
22 this section to which the beneficiaries of a deceased person are entitled
23 shall submit a notarized affidavit provided by the Arkansas State Claims
24 Commission that:

25 (A) Lists all known surviving children of the decedent,
26 their respective ages, last known addresses, and contact information; and

27 (B) Discloses the existence of any last will and testament
28 of the decedent.

29 (2) If a person who claims a benefit as a qualified recipient
30 fails to list all known surviving children as required by subdivision
31 (f)(1)(A) of this section, the Arkansas State Claims Commission may require
32 that the person return the benefit to the Arkansas State Claims Commission
33 for further proceedings.

34 (g) If a benefit under this section is payable to both the surviving
35 spouse and other eligible persons such as surviving children, the Arkansas
36 State Claims Commission shall hold a hearing to determine how the benefit

1 shall be distributed among the eligible persons if those percentages are not
2 already provided for by law.

3 (h) As used in this section:

4 (1) "Qualified recipient" means a beneficiary of an award or
5 allowance under this section with the following priority for eligibility and
6 distribution to a beneficiary:

7 (A) If the person has a designated beneficiary or
8 beneficiaries, the designated beneficiary or beneficiaries are entitled to
9 the award or allowance, in whatever percentage indicated by the covered
10 public employee;

11 (B) Subject to subdivision (h)(1)(C) of this section, if
12 the person has no designated beneficiary or beneficiaries, the award or
13 allowance shall go to the person's surviving spouse;

14 (C) If the person has a surviving spouse and surviving
15 dependent children, the surviving spouse is entitled to fifty percent (50%)
16 of the award or allowance and the surviving dependent children are entitled
17 to the other fifty percent (50%) of the award or allowance in equal shares;
18 or

19 (D) If the person is unmarried at the date of his or her
20 death:

21 (i) The person's surviving dependent children split
22 the award or allowance in equal shares;

23 (ii) The person's children split the award or
24 allowance in equal shares if there are no surviving dependent children; or

25 (iii) The person's surviving parents split the award
26 or allowance in equal shares if there are no surviving children; and

27 (2) "Surviving dependent children" means children who have not
28 yet reached the age of majority as of the date of the award and children who
29 have a legal incapacity that renders them dependent even after reaching the
30 age of majority.

31
32 */s/Gonzales*