CLAIMS AGAINST COUNTIES
Act 58 of 1909

AN ACT relative to the adjustment and payment of claims against counties, and to provide appeals from the disallowance thereof.

History: 1909, Act 58, Eff. Sept. 1, 1909.

The People of the State of Michigan enact:

46.71 Claims against counties; adjustment, allowance and authorization of payment by board of supervisors.

Sec. 1. It shall be the duty of the board of supervisors of each county, or the board of county auditors in counties having a board of county auditors, to adjust, allow and authorize the payment of all claims against the particular county, and any claims not adjusted and ordered paid by the said board of supervisors or board of county auditors, as the case may be, except as provided in this act, shall not be paid. Any claim or any part or portion thereof which may be adjusted or allowed by the board of supervisors or the board of county auditors shall be paid out of the county treasury in the manner provided by general law.

History: 1909, Act 58, Eff. Sept. 1, 1909;—CL 1915, 2299;—CL 1929, 1186;—CL 1948, 46.71.

46.72 Disallowance of claims; appeal to circuit court, notice; bond, costs.

Sec. 2. When the claim of any person, firm or corporation against a county shall be disallowed in whole or in part by the board of supervisors or board of county auditors, such person, firm or corporation may appeal from the decision of such board to the circuit court for the same county, by causing a written notice of such appeal to be served on the county clerk within 20 days after such disallowance: Provided, That no appeal shall be allowed, unless such claimant shall have appeared before the said board and presented evidence or shall have attached an affidavit in support of such claim. The appeal herein authorized shall be of no force or effect, unless there is filed with the county clerk at the same time the notice of appeal is served a bond for 200 dollars running to the county with sufficient surety, to be approved by the county clerk, conditioned for the faithful prosecution of such appeal and the payment of all costs that may be adjudged against the appellant.

History: 1909, Act 58, Eff. Sept. 1, 1909;—Am. 1911, Act 53, Eff. Aug. 1, 1911;—CL 1915, 2300;—CL 1929, 1187;—CL 1948, 46.72.

46.73 Appeal; county clerk, notice to prosecutor; return of proceedings, filing.

Sec. 3. The county clerk upon being served with such notice of appeal shall immediately give notice thereof to the prosecuting attorney, and make out a brief return of the proceedings of the board of supervisors or board of county auditors relating to such claim, with the decision thereon, and attach thereto the notice of appeal and all other papers in the case in his possession or which may have been before the auditing board, together with his certificate that such return is a true statement of the proceedings of the auditing board in regard to the decision appealed from, and that the notice of appeal, bond and other papers are all the papers in his possession or which were before the auditing board relating to such appeal, and forthwith file same in his office.

History: 1909, Act 58, Eff. Sept. 1, 1909;—CL 1915, 2301;—CL 1929, 1188;—CL 1948, 46.73.

46.74 Appeal; county clerk, entry of action; pleadings; procedure.

Sec. 4. The county clerk shall, as soon as the said return is filed in his office, enter in the circuit court record an action in which the claimant shall be plaintiff and the particular county defendant. The claimant shall not be permitted to file any amended or different claim from that presented to the board of supervisors or board of county auditors. The statement or return of the proceedings before the auditing board, prepared and filed in the office of the county clerk, shall be equivalent to a declaration in such action, and the defendant may file its plea thereto within 20 days after such appeal is taken. Every appeal thus taken to the circuit court shall be docketed among the other causes pending therein, and shall be heard, tried and determined as an original cause, and the practice in the circuit court shall be followed in all such matters, except where the contrary is herein expressed.

History: 1909, Act 58, Eff. Sept. 1, 1909;—CL 1915, 2302;—CL 1929, 1189;—CL 1948, 46.74.

46.75 Appeal; parties to proceeding, affidavit of interest; recoveries; costs, attorney fees.

Sec. 5. When an appeal is taken by a person, firm or corporation not a party to the proceeding before the board of supervisors or board of county auditors, such appeal may upon motion be dismissed, unless such

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person, firm or corporation shall file with the clerk of said circuit court an affidavit setting forth that the said appellant has an interest in the matter and is aggrieved by the decision of the auditing board, and alleging explicitly the nature of the interest. If upon appeal the claimant shall recover anything in addition to the amount allowed by the board of supervisors or board of county auditors, costs shall be granted the claimant regardless of the amount so recovered. If nothing shall be allowed in addition to the amount authorized by the auditing board, the defendant shall have costs. If the appeal is from the action of the board of supervisors or the board of county auditors allowing a part of a claim, the court may examine all the items thereof and give the defendant the benefit of the aggregate amount allowed thereon, and if it shall appear that the appellant or claimant has been allowed all that he is entitled to, he shall be entitled to judgment for that amount, and the defendant shall recover costs: Provided, That a term fee or attorney fee shall not be allowed in any case.

History: 1909, Act 58, Eff. Sept. 1, 1909;—CL 1915, 2303;—CL 1929, 1190;—CL 1948, 46.75.

46.76 Appeal; entry of judgment, payment; final determination.

Sec. 6. When the appellant shall be granted any sum in addition to the amount allowed by the auditing board, the circuit judge may authorize the clerk of the court to enter a judgment in favor of the claimant for the amount, which judgment when properly entered shall authorize the county treasurer to pay the amount thereof to the claimant. The circuit court may in all cases make a final determination of the proceeding which is appealed, or may return the said claim to the board of supervisors or the board of county auditors with an order how to proceed, and may require such board to comply with the final determination made by the court in the premises.

History: 1909, Act 58, Eff. Sept. 1, 1909;—CL 1915, 2304;—CL 1929, 1191;—CL 1948, 46.76.

46.77 Appeal; duty of prosecuting attorney.

Sec. 7. It is hereby made the duty of the prosecuting attorney to represent the board of supervisors or board of county auditors in any such appeal, but he shall not receive or be entitled to any additional compensation therefor.

History: 1909, Act 58, Eff. Sept. 1, 1909;—CL 1915, 2305;—CL 1929, 1192;—CL 1948, 46.77.

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