



AN ACT CONCERNING CLAIMS AGAINST THE STATE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-158 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 [(a) The Claims Commissioner may approve immediate payment of
4 just claims not exceeding seven thousand five hundred dollars. The]

5 (a) The Claims Commissioner may (1) order that a claim be denied,
6 (2) order immediate payment of a just claim in an amount not
7 exceeding fifty thousand dollars, (3) recommend to the General
8 Assembly payment of a just claim in an amount exceeding fifty
9 thousand dollars, or (4) authorize a claimant to sue the state, as
10 provided in section 4-160, as amended by this act.

11 (b) Any person who has filed a claim for more than seven thousand
12 five hundred dollars may request the General Assembly to review a
13 decision of the Claims Commissioner (1) ordering the denial of the
14 claim pursuant to subdivision (1) of subsection (a) of this section,
15 including dismissing or denying a claim that requests permission to
16 sue the state, or (2) ordering immediate payment of a just claim in an
17 amount not exceeding fifty thousand dollars pursuant to subdivision
18 (2) of subsection (a) of this section.

19 (c) The Attorney General may request the General Assembly to

20 review any decision of the Claims Commissioner pursuant to
21 subdivision (2) of subsection (a) of this section ordering immediate
22 payment of a just claim in an amount exceeding seven thousand five
23 hundred dollars.

24 (d) A request for review shall be in writing and filed with the Office
25 of the Claims Commissioner not later than twenty days after the date
26 the person requesting such review receives a copy of the decision. If a
27 request for review is filed by the Attorney General pursuant to
28 subsection (c) of this section, the clerk of the Office of the Claims
29 Commissioner shall give written notice to the claimant that the
30 Attorney General has requested the General Assembly to review the
31 decision and that the General Assembly may confirm, modify or vacate
32 the decision or remand the claim to the Claims Commissioner. The
33 filing of a request for review shall automatically stay the decision of
34 the Claims Commissioner.

35 (e) The Claims Commissioner shall submit each claim for which a
36 request for review is filed pursuant to this section to the General
37 Assembly pursuant to section 4-159, as amended by this act.

38 (f) If the Claims Commissioner orders immediate payment of a just
39 claim in an amount not exceeding fifty thousand dollars pursuant to
40 subdivision (2) of subsection (a) of this section and a request for review
41 is not timely filed pursuant to subsection (b) or (c) of this section, the
42 clerk of the Office of the Claims Commissioner shall deliver to the
43 Comptroller a certified copy of the Claims Commissioner's order and
44 the Comptroller shall make payment from such appropriation as the
45 General Assembly may have made for the payment of claims or, in the
46 case of contractual claims for goods or services furnished or for
47 property leased, from the appropriation of the agency which received
48 such goods or services or occupied such property. [Within]

49 (g) Not later than five days after the convening of each regular
50 session, the Claims Commissioner shall report to the General
51 Assembly on all claims decided pursuant to this section.

52 [(b) Any person who, having filed a claim for more than seven
53 thousand five hundred dollars, wishes to protest an award of the
54 Claims Commissioner under the provisions of this section may waive
55 immediate payment and his claim shall be submitted to the General
56 Assembly under the provisions of section 4-159. Such waiver shall be
57 in writing and shall be filed with the Claims Commissioner within ten
58 days after the claimant receives a copy of the order approving
59 payment.]

60 Sec. 2. Section 4-159 of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective October 1, 2003*):

62 [After hearing, the Claims Commissioner shall make his
63 recommendations to the General Assembly for the payment or
64 rejection of amounts exceeding seven thousand five hundred dollars.
65 Within]

66 (a) Not later than five days after the convening of each regular
67 session and at such other times as the speaker of the House of
68 Representatives and president pro tempore of the Senate may desire,
69 the Claims Commissioner shall submit [such recommendations] to the
70 General Assembly (1) all claims for which the Claims Commissioner
71 recommended payment of a just claim in an amount exceeding fifty
72 thousand dollars pursuant to subdivision (3) of subsection (a) of
73 section 4-158, as amended by this act, and (2) all claims for which a
74 request for review has been filed pursuant to subsection (b) or (c) of
75 section 4-158, as amended by this act, together with a copy of [his] the
76 Claims Commissioner's findings and [of] the hearing record of each
77 claim so reported. [The General Assembly may (1) accept or alter any
78 such recommendation or (2) reject any such recommendation and
79 grant or deny the claimant permission to sue the state.]

80 (b) The General Assembly shall:

81 (1) With respect to a decision of the Claims Commissioner ordering
82 the denial of a claim pursuant to subdivision (1) of subsection (a) of
83 section 4-158, as amended by this act:

84 (A) Confirm the decision; or

85 (B) Vacate the decision and, in lieu thereof, (i) order the payment of
86 the claim in a specified amount, or (ii) authorize the claimant to sue the
87 state;

88 (2) With respect to a decision of the Claims Commissioner ordering
89 the immediate payment of a just claim in an amount not exceeding
90 fifty thousand dollars pursuant to subdivision (2) of subsection (a) of
91 section 4-158, as amended by this act:

92 (A) Confirm the decision;

93 (B) Modify the decision by ordering that a different amount be paid;

94 (C) Vacate the decision and, in lieu thereof, (i) order no payment be
95 made, or (ii) authorize the claimant to sue the state;

96 (3) With respect to a decision of the Claims Commissioner
97 recommending payment of a just claim in an amount exceeding fifty
98 thousand dollars pursuant to subdivision (3) of subsection (a) of
99 section 4-158, as amended by this act:

100 (A) Accept the recommendation and order payment of the specified
101 amount;

102 (B) Modify the recommendation by ordering that a different amount
103 be paid; or

104 (C) Reject the recommendation and, in lieu thereof, (i) order no
105 payment be made, or (ii) authorize the claimant to sue the state; or

106 (4) Remand the claim to the Claims Commissioner for such further
107 proceedings as the General Assembly may direct.

108 (c) The General Assembly may grant the claimant permission to sue
109 the state under the provisions of this section when the General
110 Assembly deems it just and equitable and believes the claim to present
111 an issue of law or fact under which the state, were it a private person,

112 could be liable.

113 (d) If the General Assembly orders the payment of a claim, the clerk
114 of the Office of the Claims Commissioner shall deliver to the
115 Comptroller a notice of the order and the Comptroller shall make
116 payment in the manner prescribed for payment of an order of the
117 Claims Commissioner pursuant to section 4-158, as amended by this
118 act.

119 (e) The review by the General Assembly of claims submitted to it by
120 the Claims Commissioner under this section shall be conducted in
121 accordance with such procedures as the General Assembly may
122 prescribe.

123 Sec. 3. Section 4-154 of the general statutes is repealed and the
124 following is substituted in lieu thereof (*Effective October 1, 2003*):

125 [Within] (a) Not later than ninety days after hearing a claim, the
126 Claims Commissioner shall render a decision as provided in
127 subsection (a) of section 4-158, as amended by this act. The Claims
128 Commissioner shall make a finding of fact for each claim and file such
129 finding with the order, [or] recommendation or authorization
130 disposing of the claim. The clerk of the Office of the Claims
131 Commissioner shall deliver a copy of such finding and order, [or]
132 recommendation or authorization to the claimant and to the
133 representative for the state, which representative may in appropriate
134 cases be the Attorney General.

135 (b) If such claim will automatically be submitted to the General
136 Assembly by the Claims Commissioner pursuant to the provisions of
137 subdivision (1) of subsection (a) of section 4-159, as amended by this
138 act, the clerk shall give written notice to the claimant that such claim
139 will be so submitted and that the General Assembly may accept, [alter]
140 modify or reject the recommendation of the Claims Commissioner or
141 remand the claim to the Claims Commissioner.

142 (c) If the claimant has the right pursuant to subsection (b) of section

143 4-158, as amended by this act, to request the General Assembly to
144 review the decision of the Claims Commissioner, the clerk shall give
145 written notice to the claimant that the claimant may request the
146 General Assembly to review the decision and that the General
147 Assembly may confirm, modify or vacate the decision or remand the
148 claim to the Claims Commissioner. The notice shall indicate the date
149 by which such a request must be filed with the Office of the Claims
150 Commissioner.

151 Sec. 4. Section 4-160 of the general statutes is repealed and the
152 following is substituted in lieu thereof (*Effective October 1, 2003*):

153 (a) When the Claims Commissioner deems it just and equitable, [he]
154 the Claims Commissioner may authorize suit against the state on any
155 claim which, in [his] the opinion of the Claims Commissioner, presents
156 an issue of law or fact under which the state, were it a private person,
157 could be liable.

158 (b) In any claim alleging malpractice against the state, a state
159 hospital or a sanatorium or against a physician, surgeon, dentist,
160 podiatrist, chiropractor or other licensed health care provider
161 employed by the state, the attorney or party filing the claim may
162 submit a certificate of good faith to the Claims Commissioner in
163 accordance with section 52-190a. If such a certificate is submitted, the
164 Claims Commissioner shall authorize suit against the state on such
165 claim.

166 (c) In each action authorized by the Claims Commissioner pursuant
167 to subsection (a) or (b) of this section or by the General Assembly
168 pursuant to section 4-159, as amended by this act, or 4-159a, the
169 claimant shall allege such authorization and the date on which it was
170 granted, except that evidence of such authorization shall not be
171 admissible in such action as evidence of the state's liability. The state
172 waives its immunity from liability and from suit in each such action
173 and waives all defenses which might arise from the eleemosynary or
174 governmental nature of the activity complained of. The rights and

175 liability of the state in each such action shall be coextensive with and
176 shall equal the rights and liability of private persons in like
177 circumstances.

178 (d) No such action shall be brought but within one year from the
179 date such authorization to sue is granted. With respect to any claim
180 pending before the Claims Commissioner on October 1, 1992, or
181 presented to the Claims Commissioner on or after said date for which
182 authorization to sue is granted, any statute of limitation applicable to
183 such action shall be tolled until the date such authorization to sue is
184 granted. Action shall be brought against the state as party defendant in
185 the judicial district in which the claimant resides or, if the claimant is
186 not a resident of this state, in the judicial district of Hartford or in the
187 judicial district in which the claim arose.

188 (e) Civil process directed against the state shall be served as
189 provided by section 52-64.

190 (f) Issues arising in such actions shall be tried to the court without a
191 jury.

192 (g) The laws and rules of practice governing disclosures in civil
193 actions shall apply against state agencies and state officers and
194 employees possessing books, papers, records, documents or
195 information pertinent to the issues involved in any such action.

196 (h) The Attorney General, with the consent of the court, may
197 compromise or settle any such action. The terms of every such
198 compromise or settlement shall be expressed in a judgment of the
199 court.

200 (i) Costs may be allowed against the state as the court deems just,
201 consistent with the provisions of chapter 901.

202 (j) The clerk of the court in which judgment is entered against the
203 state shall forward a certified copy of such judgment to the
204 Comptroller. The Attorney General shall certify to the Comptroller

205 when the time allowed by law for proceeding subsequent to final
206 judgment has expired and [he] the Attorney General shall designate
207 the state agency involved in the action. Upon receipt of such judgment
208 and certification, the Comptroller shall make payment as follows:
209 Amounts directed by law to be paid from a special fund shall be paid
210 from such special fund; amounts awarded upon contractual claims for
211 goods or services furnished or for property leased shall be paid from
212 the appropriation of the agency which received such goods or services
213 or occupied such property; all other amounts shall be paid from such
214 appropriation as the General Assembly may have made for the
215 payment of claims.

216 (k) [Within] Not later than five days after the convening of each
217 regular session, the Attorney General shall report to the joint standing
218 committee of the General Assembly on the judiciary on the status and
219 disposition of all actions authorized pursuant to this section or section
220 4-159, as amended by this act, or brought against the state under any
221 other provision of law and in which the interests of the state are
222 represented by the Attorney General. The report shall include: (1) The
223 number of such actions pending in state and federal court, categorized
224 by the alleged ground for the action, (2) the number of new actions
225 brought in the preceding year in state and federal court, categorized by
226 the alleged ground for the action, (3) the number of actions disposed of
227 in the preceding year, categorized by the ground for the action that
228 was disposed of and whether the action was disposed of by settlement
229 or litigation to final judgment, and the amount paid for actions within
230 the respective categories, and (4) such other information as may be
231 requested, from time to time, by the joint standing committee of the
232 General Assembly on the judiciary. The report shall identify each
233 action disposed of by payment of an amount exceeding one hundred
234 thousand dollars.

235 Sec. 5. (NEW) (*Effective October 1, 2003*) The Commissioner of
236 Correction shall establish a lost property board within the Department
237 of Correction to hear and determine any claim by an inmate of a
238 correctional facility who seeks compensation not exceeding three

239 thousand five hundred dollars for lost or damaged personal property.
240 The board shall hear and determine each such claim and may, if it
241 determines the claim is one which in equity and justice the state should
242 pay, award damages. If the board denies a claim in whole or in part,
243 the inmate may, not later than sixty days after such decision, present
244 the claim to the Claims Commissioner in accordance with section 4-147
245 of the general statutes. The filing of a claim with the lost property
246 board shall toll the time limit for presenting a claim to the Claims
247 Commissioner pursuant to section 4-148 of the general statutes. The
248 Commissioner of Correction shall adopt regulations, in accordance
249 with chapter 54 of the general statutes, to implement the provisions of
250 this section.

251 Sec. 6. Section 4a-20 of the general statutes is repealed and the
252 following is substituted in lieu thereof (*Effective October 1, 2003*):

253 The State Insurance and Risk Management Board shall determine
254 the method by which the state shall insure itself against losses by the
255 purchase of insurance governed by the provisions of title 38a to obtain
256 the broadest coverage at the most reasonable cost. It shall direct the
257 negotiations for purchase of such insurance and determine whether
258 deductible or other risk retention provisions should be included in the
259 insurance contract. Wherever appropriate it shall determine that the
260 state shall act as a self-insurer and may request funds from the
261 contingency fund to establish reserves and carry out such practices as
262 are necessary to safeguard the self-insurance activity. Said board may
263 develop and implement risk management and loss prevention
264 programs related to insurance plans established pursuant to the
265 provisions of sections 4a-19 to 4a-21, inclusive, and may recommend to
266 the Governor and the General Assembly the enactment of policies
267 designed to reduce risks and hazards that may result in state liability
268 for tortious conduct. It shall designate the agent or agents of record
269 and shall select the companies from whom insurance coverage and
270 surety bonds shall be purchased. Notwithstanding any other provision
271 of the general statutes, including without limitation sections 38a-707
272 and 38a-825, it shall have full authority to negotiate either a

273 commission or fee structure to compensate the agent or agents of
274 record for services performed. It shall also have full authority to retain
275 consulting firms and to negotiate their fee compensation for services
276 performed. Any refund, dividend or other payment from any
277 insurance company in connection with insurance for the state shall be
278 returned to the Comptroller for deposit in the General Fund. The
279 board shall establish specifications for each contract of insurance and
280 shall request bids for each such contract through the agent of record.
281 Each such contract shall be for a specified period of time.

282 Sec. 7. Section 4a-21 of the general statutes is repealed and the
283 following is substituted in lieu thereof (*Effective October 1, 2003*):

284 [Said board] The State Insurance and Risk Management Board shall,
285 on or before September first, annually, make a report to the Governor
286 and the joint standing committee of the General Assembly on the
287 judiciary of its activities during the year ending the preceding June
288 thirtieth. Such report shall include (1) an evaluation of the state
289 insurance program in terms of adequacy and reasonableness of cost,
290 (2) a complete statement of the costs of said program enumerating
291 lines of coverage, (3) an evaluation of the effectiveness of each portion
292 of the program involving deductibles or partial self-insurance, (4) a
293 statement of the agent or agents of record, or consultants, if any, (5) an
294 evaluation of the agent or agents of record, or consultants, if any, (6) a
295 breakdown of the actual commissions or fees paid, (7) any
296 recommendations adopted by the board for the enactment of policies
297 designed to reduce risks and hazards that may result in state liability
298 for tortious conduct, (8) the status and disposition of claims
299 administered through the state insurance program, and [(7)] (9) such
300 other matters as the board determines to be appropriate and necessary.
301 The portion of the report concerning the status and disposition of
302 claims shall include (A) the number of claims pending under the state
303 insurance program, categorized by the alleged ground for the claim,
304 (B) the number of new claims brought under the state insurance
305 program in the preceding year, categorized by the alleged ground for
306 the claim, (C) the number of claims disposed of in the preceding year,

307 categorized by the ground for the claim that was disposed of and
308 whether the claim was disposed of by settlement or litigation to final
309 judgment, and the amount paid for claims within the respective
310 categories, and (D) such other information within the cognizance of the
311 board as may be requested, from time to time, by the joint standing
312 committee of the General Assembly on the judiciary. The report shall
313 identify each claim disposed of by payment of an amount exceeding
314 one hundred thousand dollars. Each such report shall become a public
315 record.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>

JUD *Joint Favorable Subst.*

APP *Joint Favorable*