



Senate

General Assembly

File No. 472

February Session, 2004

Senate Bill No. 544

Senate, April 6, 2004

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

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 Section 4-158 of the general statutes is repealed and the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, 2004*):

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, 2004*):

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 or

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

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

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

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

105 (C) Reject the recommendation and, in lieu thereof, (i) order no

106 payment be made, or (ii) authorize the claimant to sue the state; or

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

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

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

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

124 Sec. 3. Section 4-154 of the general statutes is repealed and the
125 following is substituted in lieu thereof (*Effective October 1, 2004*):

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

136 (b) If such claim will automatically be submitted to the General

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

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

152 Sec. 4. Section 4-160 of the general statutes is repealed and the
153 following is substituted in lieu thereof (*Effective October 1, 2004*):

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

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

167 (c) In each action authorized by the Claims Commissioner pursuant
168 to subsection (a) or (b) of this section or by the General Assembly

169 pursuant to section 4-159, as amended by this act, or 4-159a, the
170 claimant shall allege such authorization and the date on which it was
171 granted, except that evidence of such authorization shall not be
172 admissible in such action as evidence of the state's liability. The state
173 waives its immunity from liability and from suit in each such action
174 and waives all defenses which might arise from the eleemosynary or
175 governmental nature of the activity complained of. The rights and
176 liability of the state in each such action shall be coextensive with and
177 shall equal the rights and liability of private persons in like
178 circumstances.

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

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

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

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

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

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

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

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

235 thousand dollars.

236 Sec. 5. (NEW) (*Effective October 1, 2004*) The Commissioner of
237 Correction shall establish a lost property board within the Department
238 of Correction to hear and determine any claim by an inmate of a
239 correctional facility who seeks compensation not exceeding three
240 thousand five hundred dollars for lost or damaged personal property.
241 The board shall hear and determine each such claim and may, if it
242 determines the claim is one which in equity and justice the state should
243 pay, award damages. If the board denies a claim in whole or in part,
244 the inmate may, not later than sixty days after such decision, present
245 the claim to the Claims Commissioner in accordance with section 4-147
246 of the general statutes. The filing of a claim with the lost property
247 board shall toll the time limit for presenting a claim to the Claims
248 Commissioner pursuant to section 4-148 of the general statutes. The
249 Commissioner of Correction shall adopt regulations, in accordance
250 with chapter 54 of the general statutes, to implement the provisions of
251 this section.

252 Sec. 6. Section 4a-20 of the general statutes is repealed and the
253 following is substituted in lieu thereof (*Effective October 1, 2004*):

254 The State Insurance and Risk Management Board shall determine
255 the method by which the state shall insure itself against losses by the
256 purchase of insurance governed by the provisions of title 38a to obtain
257 the broadest coverage at the most reasonable cost. It shall direct the
258 negotiations for purchase of such insurance and determine whether
259 deductible or other risk retention provisions should be included in the
260 insurance contract. Wherever appropriate it shall determine that the
261 state shall act as a self-insurer and may request funds from the
262 contingency fund to establish reserves and carry out such practices as
263 are necessary to safeguard the self-insurance activity. Said board may
264 develop and implement risk management and loss prevention
265 programs related to insurance plans established pursuant to the
266 provisions of sections 4a-19 to 4a-21, inclusive, and may recommend to
267 the Governor and the General Assembly the enactment of policies

268 designed to reduce risks and hazards that may result in state liability
269 for tortious conduct. It shall designate the agent or agents of record
270 and shall select the companies from whom insurance coverage and
271 surety bonds shall be purchased. Notwithstanding any other provision
272 of the general statutes, including without limitation sections 38a-707
273 and 38a-825, it shall have full authority to negotiate either a
274 commission or fee structure to compensate the agent or agents of
275 record for services performed. It shall also have full authority to retain
276 consulting firms and to negotiate their fee compensation for services
277 performed. Any refund, dividend or other payment from any
278 insurance company in connection with insurance for the state shall be
279 returned to the Comptroller for deposit in the General Fund. The
280 board shall establish specifications for each contract of insurance and
281 shall request bids for each such contract through the agent of record.
282 Each such contract shall be for a specified period of time.

283 Sec. 7. Section 4a-21 of the general statutes is repealed and the
284 following is substituted in lieu thereof (*Effective October 1, 2004*):

285 [Said board] The State Insurance and Risk Management Board shall,
286 on or before September first, annually, make a report to the Governor
287 and, in accordance with the provisions of section 11-4a, to the joint
288 standing committee of the General Assembly on the judiciary of its
289 activities during the year ending the preceding June thirtieth. Such
290 report shall include (1) an evaluation of the state insurance program in
291 terms of adequacy and reasonableness of cost, (2) a complete statement
292 of the costs of said program enumerating lines of coverage, (3) an
293 evaluation of the effectiveness of each portion of the program
294 involving deductibles or partial self-insurance, (4) a statement of the
295 agent or agents of record, or consultants, if any, (5) an evaluation of the
296 agent or agents of record, or consultants, if any, (6) a breakdown of the
297 actual commissions or fees paid, (7) any recommendations adopted by
298 the board for the enactment of policies designed to reduce risks and
299 hazards that may result in state liability for tortious conduct, (8) the
300 status and disposition of claims administered through the state
301 insurance program, and [(7)] (9) such other matters as the board

302 determines to be appropriate and necessary. The portion of the report
 303 concerning the status and disposition of claims shall include (A) the
 304 number of claims pending under the state insurance program,
 305 categorized by the alleged ground for the claim, (B) the number of new
 306 claims brought under the state insurance program in the preceding
 307 year, categorized by the alleged ground for the claim, (C) the number
 308 of claims disposed of in the preceding year, categorized by the ground
 309 for the claim that was disposed of and whether the claim was disposed
 310 of by settlement or litigation to final judgment, and the amount paid
 311 for claims within the respective categories, and (D) such other
 312 information within the cognizance of the board as may be requested,
 313 from time to time, by the joint standing committee of the General
 314 Assembly on the judiciary. The report shall identify each claim
 315 disposed of by payment of an amount exceeding one hundred
 316 thousand dollars. Each such report shall become a public record.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Claims Comr., Off.	GF - See Below	See Below	See Below
Ins. & Risk Mgmt. Bd.	GF - Potential Cost	Minimal	None
Attorney General; Correction, Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

Office of the Claims Commissioner

The bill increases the amount of payments for claims, from \$7,500 to \$50,000, that the Claims Commissioner may order from either the appropriated, adjudicated claims account within his own agency or other state agencies' appropriations.¹ Current law provides that the General Assembly must approve of any payment in excess of \$7,500. There is no anticipated, net fiscal impact to the state associated with this change since the General Assembly typically accepts the Claims Commissioner's recommendations for payment of claims that are less than \$50,000. More payments would be made directly from the Office of the Claims Commissioner's account for adjudicated claims rather than the resources of the General Fund as a result of the bill. Consequently, the appropriation for that account would need to be increased.

¹ Pursuant to CGS Section 4-158, the Claims Commissioner may order payments for personal injury claims from the appropriated, adjudicated claims account within the Office of the Claims Commissioner (about \$100,000 is appropriated to this account annually), or in the case of contractual claims for goods or services furnished or for property leased, directly from the appropriation of the state agency which received such goods, services or occupied such property.

State Insurance and Risk Management Board

There is no fiscal impact for the State Insurance and Risk Management Board to recommend policies designed to reduce risks and hazards. However, to fulfill the new reporting requirements the board will potentially require minimal funds in Other Expenses to cover the cost of having the state's vendor for claims administration re-program their computer systems to capture additional data. There is also a potential cost to the degree that any additional reporting requirements made by the Judiciary Committee would require the vendor for claims administration to do additional re-programming.

Department of Correction

The bill requires the Department of Correction to establish a lost property board to hear and determine claims against the state by inmates for lost or damaged personal property. Passage of the bill would result in additional workload for the department but would not result in the need for additional resources.

Office of the Attorney General

The bill specifies what must be included in the annual report current law requires the Attorney General to submit to the General Assembly concerning the status and disposition of lawsuits authorized by the Claims Commissioner or the General Assembly after receiving of the Claims Commissioner's recommendations. It also expands the reporting requirement to include actions brought against the state under any other provision of law and in which the interests of the state are represented by the Attorney General. It is anticipated that this reporting requirement could be accommodated within anticipated budgetary resources.

OLR BILL ANALYSIS

SB 544

AN ACT CONCERNING CLAIMS AGAINST THE STATE**SUMMARY:**

This bill increases, from \$7,500 to \$50,000, the size of a claim the claims commissioner can order paid without legislative approval. It eliminates the requirement that he submit his recommendations to the legislature for the payment or rejection of claims between \$7,500 and \$50,000. Instead, it authorizes claimants with claims of over \$7,500 to ask the legislature to review the commissioner's decision to deny them, deny permission to sue the state, or pay a claim of up to \$50,000. It also authorizes the attorney general to ask the legislature to review any decision by the commissioner to order the payment of a claim up to \$50,000. Under existing law, unchanged by the bill, the commissioner (1) must submit his recommendations to the legislature for the payment of claims over \$50,000 and (2) may, without legislative approval, authorize a claimant to sue the state.

It requires the legislature to review claims submitted by the claims commissioner in accordance with procedures it establishes.

The bill specifies what must be included in the annual report the attorney general (AG) must, by law, submit on the status and disposition of lawsuits either the claims commissioner or legislature authorized. It expands the requirement to include other lawsuits filed against the state in which the attorney general represents the state. It requires that the AG submit the report to the Judiciary Committee instead of the legislature.

The bill requires the Department of Correction commissioner to establish a lost property board to hear and determine any claim against the state by a correctional facility inmate who seeks up to \$3,500 for lost or damaged personal property.

It authorizes the State Insurance Risk Management Board to

recommend to the governor and legislature policies designed to reduce risks and hazards that may result in state liability for tortious conduct. It requires that the board's annual report to the governor also be made to the Judiciary Committee, and requires that certain additional information be included.

EFFECTIVE DATE: October 1, 2004

CLAIMS COMMISSIONER AUTHORITY

Current law authorizes the claims commissioner to approve immediate payment of just claims up to \$7,500. The bill authorizes him to order immediate payment of claims up to \$50,000. As under current law, he must submit his recommendations to the legislature for payment of a claim over \$50,000.

REQUESTS FOR GENERAL ASSEMBLY REVIEW

The bill gives anyone who filed a claim for more than \$7,500 the right to ask the legislature to review a claims commissioner decision (1) denying the claim, including dismissing or denying a claim that requests permission to sue the state or (2) ordering immediate payment of a just claim for up to \$50,000.

The bill requires the commissioner to give written notice to the claimant that he may ask the legislature to review the commissioner's decision and that the legislature may confirm, modify, or vacate the decision or remand the claim to the commissioner. The notice must indicate the deadline for the request. The bill also allows the attorney general to ask the legislature to review any decision ordering immediate payment of a claim exceeding \$7,500.

The bill requires that a request for review be in writing and filed with the Office of the Claims Commissioner within 20 days after the date the requester received a copy of the decision. If the attorney general files a request, the commissioner must give written notice to the claimant of this and that the legislature may confirm, modify, or vacate the decision or remand the claim to the commissioner. The filing of a request automatically stays the commissioner's decision. The bill requires the commissioner to submit to the legislature each claim for which a request for review is filed.

It requires that the notice the commissioner provides the claimant that his claim will be automatically reviewed by the General Assembly be in writing. (Under the bill, claims for which the commissioner recommends payment exceeding \$50,000 are automatically reviewed.)

LEGISLATIVE ACTIONS

Under current law, the legislature may (1) accept or alter any recommendation or (2) reject a recommendation and grant or deny the claimant permission to sue the state. The bill authorizes the legislature to remand any claim brought before it to the claims commissioner for any further actions the legislature directs. In addition, it authorizes the legislature to act when the commissioner (1) denies a claim, (2) orders payment of a claim of \$50,000 or less, (3) recommends paying a claim of \$50,000 or more.

Denial of Claim by Commissioner

When the commissioner denies a claim, the General Assembly may (1) confirm the decision or (2) vacate and order the payment of the claim in a specified amount or authorize the claimant to sue the state.

Commissioner Order to Pay Claim of \$50,000 or Less

When the commissioner orders payment of a claim for \$50,000 or less, the legislature may (1) confirm the decision, (2) modify it by ordering that a different amount be paid, or (3) vacate the decision and either order no payment be made or authorize the claimant to sue the state.

Commissioner Recommendation to Pay a Claim of More Than \$50,000

When the commissioner recommends paying a claim for over \$50,000, the legislature may (1) accept the recommendation and order payment of the specified amount, (2) modify the recommendation by ordering that a different amount be paid, (3) reject the recommendation and order that no payment be made, or authorize the claimant to sue the state, or (4) remand the claim to the claims commissioner for whatever proceedings the legislature directs.

The bill requires that when the legislature orders payment of a claim, the clerk of the Claims Commissioner's Office deliver to the comptroller a notice of the order. The comptroller must make payment

from legislative appropriations for the payment of claims or, in the case of contractual claims for goods or services furnished or for property leased, from the appropriation of the agency that received the goods or services or occupied the property.

ATTORNEY GENERAL ANNUAL REPORT

The bill requires the attorney general's annual report to the Judiciary Committee to include (1) the number of lawsuits against the state pending in state and federal court, categorized by the alleged grounds for them; (2) the number of new lawsuits filed in the preceding year in state and federal court, categorized by the alleged grounds; (3) the number of lawsuits disposed of in the preceding year, categorized by the grounds for the lawsuits and whether they were disposed of by settlement or litigation to final judgment, and the amount paid for lawsuits within each category; and (4) other information the committee requests.

The report must identify each lawsuit disposed of by paying more than \$100,000.

LOST PROPERTY BOARD

The bill creates a lost property board to hear and decide inmate claims for up to \$3,500. It may award damages if it determines a claim is one that, in the interest of equity and justice, the state should pay. If the board denies a claim, in whole or in part, the inmate may, within 60 days after the decision, present the claim to the claims commissioner. The bill requires the correction commissioner to adopt regulations to implement this requirement. (It does not explicitly establish a statute of limitations for filing a claim with the board.)

Filing a claim with the board tolls the time limit for presenting one to the claims commissioner. By law, claims must be filed with the claims commissioner within one year from the date when the damage is sustained or discovered, or by exercising reasonable care, should have been discovered, and within three years from the date of the act or event complained of.

STATE INSURANCE AND RISK MANAGEMENT BOARD

The bill requires the State Insurance and Risk Management Board's

annual report to include (1) any recommendations it adopts for enacting policies designed to reduce risks and hazards that may result in state liability for tortious conduct and (2) the status and disposition of claims administered through the state insurance program.

It also requires that the portion of the report on the status and disposition of claims include (1) the number of claims pending under the state insurance program, categorized by the alleged grounds for the claim; (2) the number of new claims brought under the program in the preceding year, categorized by their alleged grounds; (3) the number of claims disposed of in the preceding year, categorized by their grounds and whether they were disposed of by settlement or litigation to final judgment, and the amount paid for claims within each category; and (4) such other information within the board's cognizance that the Judiciary Committee may request. The report must identify each claim disposed of by paying more than \$100,000.

BACKGROUND

Claims Commissioner Law

The law requires those who wish to sue the state to go to the claims commissioner unless their case falls within an exception established by law. They must file their claim within one year after it accrues. A claim accrues on the date the damage or injury is sustained or discovered or in the exercise of reasonable care should have been discovered. But no claim may be presented more than three years after the date of the act or event complained of (CGS § 4-148).

The law excepts (1) claims for the periodic payment of disability, pensions, retirement, or other employment benefits; (2) claims for tax refunds; (3) claims for which an administrative hearing procedure is established by law; (4) requests by political subdivisions for the payments of grants in lieu of taxes; and (5) claims that the law allows to go directly to court (CGS § 4-142).

The following laws allow classes of people to sue the state directly without first going to the claims commissioner:

1. CGS § 4-61 authorizes those who have entered into a highway or public works contract with the state to bring disputed claims directly to court;

2. CGS § 4-197 authorizes those aggrieved by a violation of the law protecting the privacy of personal data about state employees to sue for damages;
3. CGS § 13a-144, authorizes those injured by a defective road or bridge to sue the commissioner of transportation for damages, if the defect is the sole proximate cause;
4. CGS § 17a-550 allows a person injured by a violation of the patient's bill of rights for mentally ill people to sue the state or its commissioners for damages (*Mahoney v. Lesnick*, 2123 Conn. 548 (1990));
5. CGS § 52-556, allows anyone injured because of the negligence of any state official or employee when operating state-owned and -insured motor vehicles to sue the state for damages; and
6. CGS § 19a-24, allows people to sue the Public Health and Mental Retardation commissioners, their staffs, and certain other related entities for official acts or omissions if the damage claims exceed \$7,500.

State Insurance Risk Management Board

The State Insurance and Risk Management Board determines the method by which the state insures itself against losses by the purchase of insurance to obtain the broadest coverage at the most reasonable cost. It must direct the negotiations to purchase such insurance and determine whether deductible or other risk retention provisions should be included in the insurance contract. Where appropriate, it must determine that the state self insure and may request funds to establish reserves and carry out practices necessary to safeguard the self-insurance activity. It may develop and implement risk management and loss prevention programs related to insurance plans.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report

Yea 42 Nay 0