



General Assembly

February Session, 2004

**Raised Bill No. 544**

LCO No. 2086

\* \_\_\_\_\_SB00544JUD\_\_032204\_\_\_\_\_\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***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 Section 4-158 of the general statutes is repealed and the  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*