



General Assembly

Substitute Bill No. 544

February Session, 2004

* SB00544APP 042004 *

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 Section 4-158 of the general statutes is repealed and the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 seven thousand five hundred dollars, (3) recommend to the
8 General Assembly payment of a just claim in an amount exceeding
9 seven thousand five hundred dollars, or (4) authorize a claimant to sue
10 the state, as 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 seven thousand five hundred dollars pursuant
18 to subdivision (2) of subsection (a) of this section.

19 (c) A request for review shall be in writing and filed with the Office
20 of the Claims Commissioner not later than twenty days after the date
21 the person requesting such review receives a copy of the decision. The
22 filing of a request for review shall automatically stay the decision of
23 the Claims Commissioner.

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

27 (e) If the Claims Commissioner orders immediate payment of a just
28 claim in an amount not exceeding seven thousand five hundred dollars
29 pursuant to subdivision (2) of subsection (a) of this section and a
30 request for review is not timely filed pursuant to subsection (b) of this
31 section, the clerk of the Office of the Claims Commissioner shall
32 deliver to the Comptroller a certified copy of the Claims
33 Commissioner's order and the Comptroller shall make payment from
34 such appropriation as the General Assembly may have made for the
35 payment of claims or, in the case of contractual claims for goods or
36 services furnished or for property leased, from the appropriation of the
37 agency which received such goods or services or occupied such
38 property. [Within]

39 (f) Not later than five days after the convening of each regular
40 session, the Claims Commissioner shall report to the General
41 Assembly on all claims decided pursuant to this section.

42 [(b) Any person who, having filed a claim for more than seven
43 thousand five hundred dollars, wishes to protest an award of the
44 Claims Commissioner under the provisions of this section may waive
45 immediate payment and his claim shall be submitted to the General
46 Assembly under the provisions of section 4-159. Such waiver shall be
47 in writing and shall be filed with the Claims Commissioner within ten
48 days after the claimant receives a copy of the order approving
49 payment.]

50 Sec. 2. Section 4-159 of the general statutes is repealed and the

51 following is substituted in lieu thereof (*Effective October 1, 2004*):

52 [After hearing, the Claims Commissioner shall make his
53 recommendations to the General Assembly for the payment or
54 rejection of amounts exceeding seven thousand five hundred dollars.
55 Within]

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

71 (b) The General Assembly shall:

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

75 (A) Confirm the decision; or

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

79 (2) With respect to a decision of the Claims Commissioner ordering
80 the immediate payment of a just claim in an amount not exceeding

81 seven thousand five hundred dollars pursuant to subdivision (2) of
82 subsection (a) of section 4-158, as amended by this act:

83 (A) Confirm the decision;

84 (B) Modify the decision by ordering that a different amount be paid;
85 or

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

88 (3) With respect to a decision of the Claims Commissioner
89 recommending payment of a just claim in an amount exceeding seven
90 thousand five hundred dollars pursuant to subdivision (3) of
91 subsection (a) of section 4-158, as amended by this act:

92 (A) Accept the recommendation and order payment of the specified
93 amount;

94 (B) Modify the recommendation by ordering that a different amount
95 be paid;

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

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

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

105 (d) If the General Assembly orders the payment of a claim, the clerk
106 of the Office of the Claims Commissioner shall deliver to the
107 Comptroller a notice of the order and the Comptroller shall make
108 payment in the manner prescribed for payment of an order of the

109 Claims Commissioner pursuant to section 4-158, as amended by this
110 act.

111 (e) The review by the General Assembly of claims submitted to it by
112 the Claims Commissioner under this section shall be conducted in
113 accordance with such procedures as the General Assembly may
114 prescribe.

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

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

127 (b) If such claim will automatically be submitted to the General
128 Assembly by the Claims Commissioner pursuant to the provisions of
129 subdivision (1) of subsection (a) of section 4-159, as amended by this
130 act, the clerk shall give written notice to the claimant that such claim
131 will be so submitted and that the General Assembly may accept, [alter]
132 modify or reject the recommendation of the Claims Commissioner or
133 remand the claim to the Claims Commissioner.

134 (c) If the claimant has the right pursuant to subsection (b) of section
135 4-158, as amended by this act, to request the General Assembly to
136 review the decision of the Claims Commissioner, the clerk shall give
137 written notice to the claimant that the claimant may request the
138 General Assembly to review the decision and that the General
139 Assembly may confirm, modify or vacate the decision or remand the
140 claim to the Claims Commissioner. The notice shall indicate the date

141 by which such a request must be filed with the Office of the Claims
142 Commissioner.

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

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

150 (b) In any claim alleging malpractice against the state, a state
151 hospital or a sanitorium or against a physician, surgeon, dentist,
152 podiatrist, chiropractor or other licensed health care provider
153 employed by the state, the attorney or party filing the claim may
154 submit a certificate of good faith to the Claims Commissioner in
155 accordance with section 52-190a. If such a certificate is submitted, the
156 Claims Commissioner shall authorize suit against the state on such
157 claim.

158 (c) In each action authorized by the Claims Commissioner pursuant
159 to subsection (a) or (b) of this section or by the General Assembly
160 pursuant to section 4-159, as amended by this act, or 4-159a, the
161 claimant shall allege such authorization and the date on which it was
162 granted, except that evidence of such authorization shall not be
163 admissible in such action as evidence of the state's liability. The state
164 waives its immunity from liability and from suit in each such action
165 and waives all defenses which might arise from the eleemosynary or
166 governmental nature of the activity complained of. The rights and
167 liability of the state in each such action shall be coextensive with and
168 shall equal the rights and liability of private persons in like
169 circumstances.

170 (d) No such action shall be brought but within one year from the
171 date such authorization to sue is granted. With respect to any claim
172 pending before the Claims Commissioner on October 1, 1992, or

173 presented to the Claims Commissioner on or after said date for which
174 authorization to sue is granted, any statute of limitation applicable to
175 such action shall be tolled until the date such authorization to sue is
176 granted. Action shall be brought against the state as party defendant in
177 the judicial district in which the claimant resides or, if the claimant is
178 not a resident of this state, in the judicial district of Hartford or in the
179 judicial district in which the claim arose.

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

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

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

188 (h) The Attorney General, with the consent of the court, may
189 compromise or settle any such action. The terms of every such
190 compromise or settlement shall be expressed in a judgment of the
191 court.

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

194 (j) The clerk of the court in which judgment is entered against the
195 state shall forward a certified copy of such judgment to the
196 Comptroller. The Attorney General shall certify to the Comptroller
197 when the time allowed by law for proceeding subsequent to final
198 judgment has expired and [he] the Attorney General shall designate
199 the state agency involved in the action. Upon receipt of such judgment
200 and certification, the Comptroller shall make payment as follows:
201 Amounts directed by law to be paid from a special fund shall be paid
202 from such special fund; amounts awarded upon contractual claims for
203 goods or services furnished or for property leased shall be paid from

204 the appropriation of the agency which received such goods or services
205 or occupied such property; all other amounts shall be paid from such
206 appropriation as the General Assembly may have made for the
207 payment of claims.

208 (k) [Within] Not later than five days after the convening of each
209 regular session, the Attorney General shall report to the joint standing
210 committee of the General Assembly on the judiciary on the status and
211 disposition of all actions authorized pursuant to this section or section
212 4-159, as amended by this act, or brought against the state under any
213 other provision of law and in which the interests of the state are
214 represented by the Attorney General. The report shall include: (1) The
215 number of such actions pending in state and federal court, categorized
216 by the alleged ground for the action, (2) the number of new actions
217 brought in the preceding year in state and federal court, categorized by
218 the alleged ground for the action, (3) the number of actions disposed of
219 in the preceding year, categorized by the ground for the action that
220 was disposed of and whether the action was disposed of by settlement
221 or litigation to final judgment, and the amount paid for actions within
222 the respective categories, and (4) such other information as may be
223 requested, from time to time, by the joint standing committee of the
224 General Assembly on the judiciary. The report shall identify each
225 action disposed of by payment of an amount exceeding one hundred
226 thousand dollars.

227 Sec. 5. (NEW) (*Effective October 1, 2004*) The Commissioner of
228 Correction shall establish a lost property board within the Department
229 of Correction to hear and determine any claim by an inmate of a
230 correctional facility who seeks compensation not exceeding three
231 thousand five hundred dollars for lost or damaged personal property.
232 The board shall hear and determine each such claim and may, if it
233 determines the claim is one which in equity and justice the state should
234 pay, award damages. If the board denies a claim in whole or in part,
235 the inmate may, not later than sixty days after such decision, present
236 the claim to the Claims Commissioner in accordance with section 4-147
237 of the general statutes. The filing of a claim with the lost property

238 board shall toll the time limit for presenting a claim to the Claims
239 Commissioner pursuant to section 4-148 of the general statutes. The
240 Commissioner of Correction shall adopt regulations, in accordance
241 with chapter 54 of the general statutes, to implement the provisions of
242 this section.

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

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

272 shall request bids for each such contract through the agent of record.
273 Each such contract shall be for a specified period of time.

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

276 [Said board] The State Insurance and Risk Management Board shall,
277 on or before September first, annually, make a report to the Governor
278 and, in accordance with the provisions of section 11-4a, to the joint
279 standing committee of the General Assembly on the judiciary of its
280 activities during the year ending the preceding June thirtieth. Such
281 report shall include (1) an evaluation of the state insurance program in
282 terms of adequacy and reasonableness of cost, (2) a complete statement
283 of the costs of said program enumerating lines of coverage, (3) an
284 evaluation of the effectiveness of each portion of the program
285 involving deductibles or partial self-insurance, (4) a statement of the
286 agent or agents of record, or consultants, if any, (5) an evaluation of the
287 agent or agents of record, or consultants, if any, (6) a breakdown of the
288 actual commissions or fees paid, (7) any recommendations adopted by
289 the board for the enactment of policies designed to reduce risks and
290 hazards that may result in state liability for tortious conduct, (8) the
291 status and disposition of claims administered through the state
292 insurance program, and [(7)] (9) such other matters as the board
293 determines to be appropriate and necessary. The portion of the report
294 concerning the status and disposition of claims shall include (A) the
295 number of claims pending under the state insurance program,
296 categorized by the alleged ground for the claim, (B) the number of new
297 claims brought under the state insurance program in the preceding
298 year, categorized by the alleged ground for the claim, (C) the number
299 of claims disposed of in the preceding year, categorized by the ground
300 for the claim that was disposed of and whether the claim was disposed
301 of by settlement or litigation to final judgment, and the amount paid
302 for claims within the respective categories, and (D) such other
303 information within the cognizance of the board as may be requested,
304 from time to time, by the joint standing committee of the General
305 Assembly on the judiciary. The report shall identify each claim

306 disposed of by payment of an amount exceeding one hundred
307 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>

Statement of Legislative Commissioners:

The new subsection (c) of section 4-158 contained in section 1 of File 472 was deleted, subsections were relettered accordingly and internal references to subsection (c) were removed for accuracy and consistency with the amended bill reported by the Appropriations committee.

APP *Joint Favorable Subst.*