



**Substitute House Bill No. 6602**

**Public Act No. 05-170**

**AN ACT CONCERNING CLAIMS AGAINST THE STATE.**

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

Section 1. Section 4-158 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

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

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

(b) Any person who has filed a claim for more than seven thousand five hundred dollars may request the General Assembly to review a decision of the Claims Commissioner (1) ordering the denial or dismissal of the claim pursuant to subdivision (1) of subsection (a) of this section, including denying or dismissing a claim that requests permission to sue the state, or (2) ordering immediate payment of a

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just claim in an amount not exceeding seven thousand five hundred dollars pursuant to subdivision (2) of subsection (a) of this section. A request for review shall be in writing and filed with the Office of the Claims Commissioner not later than twenty days after the date the person requesting such review receives a copy of the decision. The filing of a request for review shall automatically stay the decision of the Claims Commissioner.

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

(d) If the Claims Commissioner orders immediate payment of a just claim in an amount not exceeding seven thousand five hundred dollars pursuant to subdivision (2) of subsection (a) of this section and a request for review is not timely filed pursuant to subsection (b) of this section, the clerk of the Office of the Claims Commissioner shall deliver to the Comptroller a certified copy of the Claims Commissioner's order and the Comptroller shall make payment from such appropriation as the General Assembly may have made 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 which received such goods or services or occupied such property. [Within]

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

[(b) Any person who, having filed a claim for more than seven thousand five hundred dollars, wishes to protest an award of the Claims Commissioner under the provisions of this section may waive immediate payment and his claim shall be submitted to the General Assembly under the provisions of section 4-159. Such waiver shall be

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in writing and shall be filed with the Claims Commissioner within ten days after the claimant receives a copy of the order approving payment.]

Sec. 2. Section 4-159 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

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

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

(b) The General Assembly shall:

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

(A) Confirm the decision; or

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

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

(A) Confirm the decision;

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

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

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

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

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

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

(4) With respect to a decision of the Claims Commissioner pursuant to subdivision (1), (2) or (3) of subsection (a) of section 4-158, as amended by this act, remand the claim to the Claims Commissioner for such further proceedings as the General Assembly may direct.

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

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

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

Sec. 3. Section 4-154 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

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

(b) If such claim will automatically be submitted to the General Assembly by the Claims Commissioner pursuant to the provisions of

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

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

Sec. 4. Section 4-160 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

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

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

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

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

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

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

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

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

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

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

(k) [Within] Not later than five days after the convening of each regular session, the Attorney General shall report to the joint standing committee of the General Assembly on the judiciary on the status and disposition of all actions authorized pursuant to this section or section 4-159, as amended by this act, or brought against the state under any other provision of law and in which the interests of the state are represented by the Attorney General. The report shall include: (1) The number of such actions pending in state and federal court, categorized by the alleged ground for the action, (2) the number of new actions brought in the preceding year in state and federal court, categorized by the alleged ground for the action, (3) the number of actions disposed of

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in the preceding year, categorized by the ground for the action that was disposed of and whether the action was disposed of by settlement or litigation to final judgment, and the amount paid for actions within the respective categories, and (4) such other information as may be requested, from time to time, by the joint standing committee of the General Assembly on the judiciary. The report shall identify each action disposed of by payment of an amount exceeding one hundred thousand dollars.

Sec. 5. (NEW) (*Effective October 1, 2005*) The Commissioner of Correction shall establish a lost property board within the Department of Correction to hear and determine any claim by an inmate of a correctional facility who seeks compensation not exceeding three thousand five hundred dollars for lost or damaged personal property. The board shall hear and determine each such claim and may, if it determines the claim is one which in equity and justice the state should pay, award damages. If the board denies a claim in whole or in part, the inmate may, not later than sixty days after such decision, present the claim to the Claims Commissioner in accordance with section 4-147 of the general statutes. The filing of a claim with the lost property board shall toll the time limit for presenting a claim to the Claims Commissioner pursuant to section 4-148 of the general statutes. The Commissioner of Correction shall adopt regulations, in accordance with chapter 54 of the general statutes, to implement the provisions of this section.

Sec. 6. Section 4a-20 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

The State Insurance and Risk Management Board shall determine the method by which the state shall insure itself against losses by the purchase of insurance governed by the provisions of title 38a to obtain the broadest coverage at the most reasonable cost. It shall direct the negotiations for purchase of such insurance and determine whether

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deductible or other risk retention provisions should be included in the insurance contract. Wherever appropriate it shall determine that the state shall act as a self-insurer and may request funds from the contingency fund to establish reserves and carry out such practices as are necessary to safeguard the self-insurance activity. Said board may develop and implement risk management and loss prevention programs related to insurance plans established pursuant to the provisions of sections 4a-19 to 4a-21, inclusive, as amended by this act, and may recommend to the Governor and the General Assembly the enactment of policies designed to reduce risks and hazards that may result in state liability for tortious conduct. It shall designate the agent or agents of record and shall select the companies from whom insurance coverage and surety bonds shall be purchased. Notwithstanding any other provision of the general statutes, including without limitation sections 38a-707 and 38a-825, it shall have full authority to negotiate either a commission or fee structure to compensate the agent or agents of record for services performed. It shall also have full authority to retain consulting firms and to negotiate their fee compensation for services performed. Any refund, dividend or other payment from any insurance company in connection with insurance for the state shall be returned to the Comptroller for deposit in the General Fund. The board shall establish specifications for each contract of insurance and shall request bids for each such contract through the agent of record. Each such contract shall be for a specified period of time.

Sec. 7. Section 4a-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

[Said board] The State Insurance and Risk Management Board shall, on or before September first, annually, make a report to the Governor and, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly on the judiciary of its

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activities during the year ending the preceding June thirtieth. Such report shall include (1) an evaluation of the state insurance program in terms of adequacy and reasonableness of cost, (2) a complete statement of the costs of said program enumerating lines of coverage, (3) an evaluation of the effectiveness of each portion of the program involving deductibles or partial self-insurance, (4) a statement of the agent or agents of record, or consultants, if any, (5) an evaluation of the agent or agents of record, or consultants, if any, (6) a breakdown of the actual commissions or fees paid, (7) any recommendations adopted by the board for the enactment of policies designed to reduce risks and hazards that may result in state liability for tortious conduct, (8) the status and disposition of claims administered through the state insurance program, and ~~[(7)]~~ (9) such other matters as the board determines to be appropriate and necessary. The portion of the report concerning the status and disposition of claims shall include (A) the number of claims pending under the state insurance program, categorized by the alleged ground for the claim, (B) the number of new claims brought under the state insurance program in the preceding year, categorized by the alleged ground for the claim, (C) the number of claims disposed of in the preceding year, categorized by the ground for the claim that was disposed of and whether the claim was disposed of by settlement or litigation to final judgment, and the amount paid for claims within the respective categories, and (D) such other information within the cognizance of the board as may be requested, from time to time, by the joint standing committee of the General Assembly on the judiciary. The report shall identify each claim disposed of by payment of an amount exceeding one hundred thousand dollars. Each such report shall become a public record.

Approved July 1, 2005