



General Assembly

January Session, 2005

Raised Bill No. 6602

LCO No. 3103

03103_____JUD

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 Section 4-158 of the general statutes is repealed and the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, 2005*):

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 or dismissed, (2) order immediate payment of a just claim in an
7 amount not exceeding fifty thousand dollars, (3) recommend to the
8 General Assembly payment of a just claim in an amount exceeding
9 fifty 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 or
14 dismissal of the claim pursuant to subdivision (1) of subsection (a) of
15 this section, including denying or dismissing a claim that requests

16 permission to sue the state, or (2) ordering immediate payment of a
17 just claim in an amount not exceeding fifty thousand dollars pursuant
18 to subdivision (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, 2005*):

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

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

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

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

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 Section 4-154 of the general statutes is repealed and the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

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

135 recommendation or authorization to the claimant and to the
136 representative for the state, which representative may in appropriate
137 cases be the Attorney General.

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

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

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

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

161 (b) In any claim alleging malpractice against the state, a state
162 hospital or a sanatorium or against a physician, surgeon, dentist,
163 podiatrist, chiropractor or other licensed health care provider
164 employed by the state, the attorney or party filing the claim may
165 submit a certificate of good faith to the Claims Commissioner in

166 accordance with section 52-190a. If such a certificate is submitted, the
167 Claims Commissioner shall authorize suit against the state on such
168 claim.

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

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

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

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

195 (g) The laws and rules of practice governing disclosures in civil
196 actions shall apply against state agencies and state officers and

197 employees possessing books, papers, records, documents or
198 information pertinent to the issues involved in any such action.

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

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

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

219 (k) [Within] Not later than five days after the convening of each
220 regular session, the Attorney General shall report to the joint standing
221 committee of the General Assembly on the judiciary on the status and
222 disposition of all actions authorized pursuant to this section or section
223 4-159, as amended by this act, or brought against the state under any
224 other provision of law and in which the interests of the state are
225 represented by the Attorney General. The report shall include: (1) The
226 number of such actions pending in state and federal court, categorized
227 by the alleged ground for the action, (2) the number of new actions
228 brought in the preceding year in state and federal court, categorized by

229 the alleged ground for the action, (3) the number of actions disposed of
230 in the preceding year, categorized by the ground for the action that
231 was disposed of and whether the action was disposed of by settlement
232 or litigation to final judgment, and the amount paid for actions within
233 the respective categories, and (4) such other information as may be
234 requested, from time to time, by the joint standing committee of the
235 General Assembly on the judiciary. The report shall identify each
236 action disposed of by payment of an amount exceeding one hundred
237 thousand dollars.

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

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

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

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

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

288 [Said board] The State Insurance and Risk Management Board shall,
289 on or before September first, annually, make a report to the Governor
290 and, in accordance with the provisions of section 11-4a, to the joint
291 standing committee of the General Assembly on the judiciary of its
292 activities during the year ending the preceding June thirtieth. Such
293 report shall include (1) an evaluation of the state insurance program in

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	4-158
Sec. 2	<i>October 1, 2005</i>	4-159
Sec. 3	<i>October 1, 2005</i>	4-154
Sec. 4	<i>October 1, 2005</i>	4-160
Sec. 5	<i>October 1, 2005</i>	New section
Sec. 6	<i>October 1, 2005</i>	4a-20

Sec. 7	October 1, 2005	4a-21
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Statement of Purpose:

To revise the procedures for the determination of claims against the state by the Claims Commissioner and the review of those determinations by the General Assembly, and to require annual reports be made to the General Assembly concerning the state's risk management program and the status and disposition of claims against the state administered through the state insurance program.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]