



General Assembly

**Substitute Bill No. 6602**

January Session, 2005

\* \_\_\_\_\_ HB06602JUD\_\_040605\_\_\_\_\_ \*

**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 Section 4-158 of the general statutes is repealed and the  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 seven thousand five hundred dollars, (3)  
8 recommend to the General Assembly payment of a just claim in an  
9 amount exceeding seven thousand five hundred dollars, or (4)  
10 authorize a claimant to sue the state, as provided in section 4-160, as  
11 amended by this act.

12 (b) Any person who has filed a claim for more than seven thousand  
13 five hundred dollars may request the General Assembly to review a  
14 decision of the Claims Commissioner (1) ordering the denial or  
15 dismissal of the claim pursuant to subdivision (1) of subsection (a) of  
16 this section, including denying or dismissing a claim that requests  
17 permission to sue the state, or (2) ordering immediate payment of a  
18 just claim in an amount not exceeding seven thousand five hundred  
19 dollars pursuant to subdivision (2) of subsection (a) of this section. A

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

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

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

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

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

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

52 following is substituted in lieu thereof (*Effective October 1, 2005*):

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

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

72 (b) The General Assembly shall:

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

76 (A) Confirm the decision; or

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

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

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

84 (A) Confirm the decision;

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

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

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

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

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

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

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

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

108 (d) If the General Assembly orders the payment of a claim, the clerk  
109 of the Office of the Claims Commissioner shall deliver to the

110 Comptroller a notice of the order and the Comptroller shall make  
111 payment in the manner prescribed for payment of an order of the  
112 Claims Commissioner pursuant to section 4-158, as amended by this  
113 act.

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

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

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

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

137 (c) If the claimant has the right pursuant to subsection (b) of section  
138 4-158, as amended by this act, to request the General Assembly to  
139 review the decision of the Claims Commissioner, the clerk shall give  
140 written notice to the claimant that the claimant may request the  
141 General Assembly to review the decision and that the General

142 Assembly may confirm, modify or vacate the decision or remand the  
143 claim to the Claims Commissioner. The notice shall indicate the date  
144 by which such a request must be filed with the Office of the Claims  
145 Commissioner.

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

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

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

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

173 (d) No such action shall be brought but within one year from the

174 date such authorization to sue is granted. With respect to any claim  
175 pending before the Claims Commissioner on October 1, 1992, or  
176 presented to the Claims Commissioner on or after said date for which  
177 authorization to sue is granted, any statute of limitation applicable to  
178 such action shall be tolled until the date such authorization to sue is  
179 granted. Action shall be brought against the state as party defendant in  
180 the judicial district in which the claimant resides or, if the claimant is  
181 not a resident of this state, in the judicial district of Hartford or in the  
182 judicial district in which the claim arose.

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

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

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

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

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

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

205 from such special fund; amounts awarded upon contractual claims for  
206 goods or services furnished or for property leased shall be paid from  
207 the appropriation of the agency which received such goods or services  
208 or occupied such property; all other amounts shall be paid from such  
209 appropriation as the General Assembly may have made for the  
210 payment of claims.

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

230 Sec. 5. (NEW) (*Effective October 1, 2005*) The Commissioner of  
231 Correction shall establish a lost property board within the Department  
232 of Correction to hear and determine any claim by an inmate of a  
233 correctional facility who seeks compensation not exceeding three  
234 thousand five hundred dollars for lost or damaged personal property.  
235 The board shall hear and determine each such claim and may, if it  
236 determines the claim is one which in equity and justice the state should  
237 pay, award damages. If the board denies a claim in whole or in part,  
238 the inmate may, not later than sixty days after such decision, present

239 the claim to the Claims Commissioner in accordance with section 4-147  
240 of the general statutes. The filing of a claim with the lost property  
241 board shall toll the time limit for presenting a claim to the Claims  
242 Commissioner pursuant to section 4-148 of the general statutes. The  
243 Commissioner of Correction shall adopt regulations, in accordance  
244 with chapter 54 of the general statutes, to implement the provisions of  
245 this section.

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

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

273 insurance for the state shall be returned to the Comptroller for deposit  
274 in the General Fund. The board shall establish specifications for each  
275 contract of insurance and shall request bids for each such contract  
276 through the agent of record. Each such contract shall be for a specified  
277 period of time.

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

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

307 information within the cognizance of the board as may be requested,  
308 from time to time, by the joint standing committee of the General  
309 Assembly on the judiciary. The report shall identify each claim  
310 disposed of by payment of an amount exceeding one hundred  
311 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	<i>October 1, 2005</i>	4a-21

**JUD**      *Joint Favorable Subst.*