



House of Representatives

General Assembly

File No. 567

February Session, 2018

House Bill No. 5505

House of Representatives, April 18, 2018

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT PROMOTING THE EXPEDITIOUS RESOLUTION OF
COMMERCIAL CASES IN THE STATE.***

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

- 1 Section 1. (NEW) (*Effective July 1, 2018*) (a) As used in this section:
- 2 (1) "Commercial case" means a civil action in which a principal
3 claim involves:
- 4 (A) Breach of contract or fiduciary duty, fraud, misrepresentation, a
5 business-related tort, including, but not limited to, unfair competition,
6 or a statutory or common law claim arising out of a business dealing,
7 including, but not limited to, (i) sales of assets or securities; (ii)
8 corporate restructuring; (iii) partnership, shareholder, joint venture
9 and other business agreements; (iv) trade secrets; (v) restrictive
10 covenants; and (vi) employment agreements, other than claims that
11 principally involve an alleged discriminatory practice;
- 12 (B) Transactions governed by the Uniform Commercial Code;
- 13 (C) Transactions involving commercial real property;

- 14 (D) Shareholder derivative actions;
- 15 (E) Commercial class actions;
- 16 (F) Business transactions involving or arising out of dealings with
17 commercial banks and other financial institutions;
- 18 (G) Internal affairs of business organizations;
- 19 (H) Malpractice by accountants or actuaries, and legal malpractice
20 arising out of representation in commercial matters;
- 21 (I) Environmental insurance coverage;
- 22 (J) Commercial insurance coverage, including, but not limited to,
23 directors and officers, errors and omissions, and business interruption
24 coverage; and
- 25 (K) Dissolution of corporations, partnerships, limited liability
26 companies, limited liability partnerships and joint ventures; and
- 27 (2) "Center" means the Connecticut Center for Commercial Claims
28 established pursuant to subsection (b) of this section.
- 29 (b) The Chief Court Administrator shall establish, within available
30 resources, a special session of the Superior Court for the resolution of
31 commercial cases involving a claim or claims for money damages in
32 excess of five hundred thousand dollars. The special session shall be
33 known as the "Connecticut Center for Commercial Claims".
- 34 (c) Upon written agreement of the parties to transfer a commercial
35 case to the center and the submission of such written agreement to the
36 Chief Court Administrator, or his or her designee, a commercial case
37 satisfying the jurisdictional requirements set forth in subsection (b) of
38 this section may be transferred to the docket of the center. Any party to
39 a commercial case that is transferred to the docket of the center shall be
40 assessed a per diem fee of twenty-five dollars per party for each day
41 that such case is pending on such docket. Assessment of the per diem
42 fee shall commence on the date on which the commercial case is

43 transferred to the docket of the center and shall terminate on the date
44 of the entry of judgment in the commercial case by the center, or, in the
45 case of a commercial case that is transferred by the center back to the
46 regular docket, the date on which the transfer occurs. The Chief Court
47 Administrator, or his or her designee, shall transfer all fees received
48 pursuant to this subsection to the organization administering the
49 program for the use of interest earned on lawyers' clients' funds
50 accounts pursuant to section 51-81c of the general statutes, for the
51 purpose of funding the delivery of legal services to the poor.

52 (d) Not later than three days following the date on which a
53 commercial case is transferred to the center, the Chief Court
54 Administrator, or his or her designee, shall provide the parties to the
55 commercial case with written notification of a list of names of not less
56 than thirty judges or judge trial referees who are available to preside
57 over the commercial case for the duration of the commercial case. Not
58 later than two weeks after the date on which the Chief Court
59 Administrator, or his or her designee, provides such written
60 notification, the parties shall provide written notification to the center
61 of the names of three judges or judge trial referees that the parties have
62 jointly selected to preside over the commercial case. The Chief Court
63 Administrator, or his or her designee, shall designate one of the three
64 judges or judge trial referees named by the parties to preside over the
65 commercial case. If the parties (1) fail to timely provide the Chief Court
66 Administrator, or his or her designee, with the names of three judges
67 or judge trial referees to preside over the commercial case, or (2)
68 cannot agree on the names of three judges or judge trial referees to
69 preside over the commercial case, the Chief Court Administrator, or
70 his or her designee, shall designate the judge or judge trial referee to
71 preside over the commercial case by selecting a judge or judge trial
72 referee from the list of names provided to the parties pursuant to this
73 subsection. In the event that no judge or judge trial referee, jointly
74 selected by the parties to preside over the commercial case, is in fact
75 available, the Chief Court Administrator shall provide the parties with
76 the opportunity to select another mutually agreed upon judge or judge
77 trial referee to preside over the commercial case.

78 (e) The judges of the Supreme Court, Appellate Court and Superior
 79 Court shall adopt and may, from time to time, modify or repeal rules
 80 and forms regulating pleading, practice and procedure in judicial
 81 proceedings administered by the center. Such rules shall be for the
 82 purpose of simplifying proceedings transferred to the center and
 83 promoting the speedy and efficient determination of commercial cases
 84 upon the merits. Such rules shall: (1) Provide for an accelerated
 85 adjudication process; (2) address pretrial proceedings, discovery and
 86 motions; (3) include a mandatory one-day mediation session with a
 87 special master, designated by the Chief Court Administrator, who
 88 shall be a judge, a judge trial referee or an attorney with expertise in
 89 commercial cases; (4) require that a decision on a dispositive motion be
 90 rendered not later than thirty days after the date on which such motion
 91 was heard; and (5) ensure that any commercial case transferred to the
 92 docket of the center be ready for trial not later than nine months
 93 following the date of such transfer. Such rules shall not abridge,
 94 enlarge or modify the jurisdiction of any court. Such rules shall
 95 become effective on such date as the judges specify, but not in any
 96 event until sixty days after such promulgation.

97 Sec. 2. (*Effective from passage*) Not later than January 1, 2019, the
 98 Chief Court Administrator, or his or her designee, shall submit a
 99 report, in accordance with the provisions of section 11-4a of the general
 100 statutes, on the establishment of the Connecticut Center for
 101 Commercial Claims to the joint standing committee of the General
 102 Assembly having cognizance of matters relating to the judiciary.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	New section
Sec. 2	<i>from passage</i>	New section

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Judicial Dept.	GF - Potential Cost	41,587	41,587
State Comptroller - Fringe Benefits ¹	GF - Potential Cost	15,109	15,109
IOLTA Program	SF - Potential Revenue Gain	Up to 9,000/case	Up to 9,000/case

Note: GF=General Fund; SF=Special Fund (Non-appropriated)

Municipal Impact: None

Explanation

The bill requires the Judicial Department to establish a special court session and results in a potential cost. It is anticipated Judicial will need one clerk at a cost of \$41,587 plus fringe benefits to staff the center and the appointment of a judge trial referee (JTRs receive a per diem of \$251 per day). As this bill requires the center to be created within available appropriations, the cost indicated above is described as potential.

The bill requires that parties that request a transfer to the special court session to pay a fee of \$25 each day per party for each day the case is pending on the center's docket, from the day the case is transferred until judgement is entered or the case is transferred back to

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.33% of payroll in FY 19 and FY 20.

the regular docket. The bill specifies that the fees collected from these cases will be transferred to the Connecticut Bar Foundation for the interest on lawyers' trust account (IOLTA) program to fund legal services for the poor. It is anticipated that most of these cases will be resolved within 6 months or less, resulting in fee revenue of less than \$9,000 each case to the IOLTA program.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of cases.

OLR Bill Analysis**HB 5505*****AN ACT PROMOTING THE EXPEDITIOUS RESOLUTION OF COMMERCIAL CASES IN THE STATE.*****SUMMARY**

This bill requires the chief court administrator to establish, within available resources, a special court session known as the Connecticut Center for Commercial Claims. The center must handle certain commercial cases involving claims of more than \$500,000 that the parties agree to transfer to it.

The bill establishes procedures for the chief court administrator, or his designee, and the parties to choose a presiding judge or judge trial referee for each case. It also requires judges to adopt rules to govern the center's procedures, and the administrator or his designee to report to the Judiciary Committee by January 1, 2019, on the center's establishment.

EFFECTIVE DATE: July 1, 2018, except the reporting requirement is effective upon passage.

CONNECTICUT CENTER FOR COMMERCIAL CLAIMS***Jurisdiction***

Under the bill, the center must handle civil commercial cases involving claims for money damages of more than \$500,000 with a principal claim involving the following:

1. breach of contract or fiduciary duty, fraud, misrepresentation, a business-related tort (such as unfair competition), or statutory or common law claims relating to business dealings, including (a) sales of assets or securities; (b) corporate restructuring; (c) partnership, shareholder, joint venture, and other business

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- agreements; (d) trade secrets; (e) restrictive covenants; and (f) employment agreements, other than claims principally alleging discrimination;
2. transactions governed by the Uniform Commercial Code or involving commercial real property;
 3. shareholder derivative or commercial class actions;
 4. business transactions involving dealings with financial institutions;
 5. a business organization's internal affairs;
 6. accountant or actuary malpractice or legal malpractice related to representation in commercial matters;
 7. environmental insurance coverage;
 8. commercial insurance coverage, including coverage for directors and officers, errors and omissions, or business interruptions; and
 9. dissolution of corporations, partnerships, limited liability companies, limited liability partnerships, or joint ventures.

Transfer and Fees

The bill allows the parties to a commercial case described above to submit a written agreement to the chief court administrator, or his designee, to transfer the case to the center's docket. If the case is transferred, a party must pay a daily fee of \$25 per party for each day the case is pending on the center's docket, from the day the case is transferred until judgment is entered or the case is transferred back to the regular court docket. The chief court administrator, or his designee, must transfer the collected fees to the organization administering the interest on lawyers' trust accounts (IOLTA) program to fund legal services to the poor.

Selecting a Presiding Judge or Judge Trial Referee

Within three days after transferring a case to the center, the chief court administrator, or his designee, must provide the parties with a written list of at least 30 judges or judge trial referees (judges age 70 or older who continue to serve in a limited capacity) available to preside over the case for its duration. The parties then have two weeks to give the center a written list of three judges or judge trial referees that they jointly select. The chief court administrator, or his designee, must choose one of these judges or referees to preside. If none of the three are available, the parties must have an opportunity to jointly select another mutually agreed upon judge or referee.

If the parties do not timely submit a list of names or cannot agree, the chief court administrator, or his designee, must select someone from the original list of judges and referees.

Rules

The bill requires the Supreme, Appellate, and Superior Court judges to adopt procedural rules and forms that simplify the proceedings transferred to the center and promote the speedy and efficient determination of commercial cases on the merits. The bill prohibits the rules from changing the courts' jurisdiction. The rules (1) are effective 60 days after adoption or a later date set by the judges and (2) may be modified or repealed by the judges.

The rules must do the following:

1. provide an accelerated adjudication process;
2. address pretrial proceedings, discovery, and motions;
3. include a mandatory one-day mediation session with a special master, chosen by the chief court administrator, who must be a judge, judge trial referee, or attorney with expertise in commercial cases;
4. require decisions on dispositive motions within 30 days after they are heard; and

5. ensure that cases are ready for trial within nine months after transfer to the center.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 38 Nay 2 (04/02/2018)