



General Assembly

Amendment

January Session, 2021

LCO No. 9155



Offered by:

REP. STAFSTROM, 129th Dist.

REP. FISHBEIN, 90th Dist.

To: Subst. House Bill No. 6506

File No. 596

Cal. No. 419

"AN ACT CONCERNING THE PROCEDURES OF THE OFFICE OF THE CLAIMS COMMISSIONER."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 4-142 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) There shall be an Office of the Claims Commissioner which shall
6 hear and determine all claims against the state except: (1) Claims for the
7 periodic payment of disability, pension, retirement or other
8 employment benefits; (2) claims upon which suit otherwise is
9 authorized by law including suits to recover similar relief arising from
10 the same set of facts; (3) claims for which an administrative hearing
11 procedure otherwise is established by law; (4) requests by political
12 subdivisions of the state for the payment of grants in lieu of taxes; and
13 (5) claims for the refund of taxes.

14 (b) The Office of the Claims Commissioner shall consist of the Claims
15 Commissioner, six temporary deputies and such administrative staff as
16 may be provided by the Department of Administrative Services. The
17 Claims Commissioner, a temporary deputy or a magistrate assigned to
18 assist the Claims Commissioner pursuant to section 4-142b shall hear
19 and determine all claims against the state, except as otherwise provided
20 in subsection (a) of this section. Such claims shall be heard and
21 determined in accordance with the rules prescribed by the Claims
22 Commissioner pursuant to section 4-157, except as may be provided in
23 section 4-160, as amended by this act.

24 Sec. 2. Section 4-142a of the general statutes is repealed and the
25 following is substituted in lieu thereof (*Effective from passage*):

26 (a) (1) The Claims Commissioner shall be appointed by the Governor
27 with the advice and consent of the General Assembly to serve for a term
28 of four years from the first day in July in the year of his or her
29 appointment and until his or her successor has been appointed and has
30 qualified. The Claims Commissioner shall be an attorney-at-law and
31 shall have been admitted to practice before the courts of the state of
32 Connecticut for at least five years prior to his or her appointment. The
33 Claims Commissioner serving on the effective date of this section may
34 continue to serve until the expiration of his or her term. On and after the
35 effective date of this section, each nomination for appointment as
36 Claims Commissioner by the Governor shall be referred, without
37 debate, to the joint standing committee of the General Assembly having
38 cognizance of matters relating to the judiciary which shall report on each
39 appointment not later than thirty days after the date of reference. Each
40 appointment by the General Assembly of the Claims Commissioner
41 shall be by concurrent resolution.

42 (2) The Claims Commissioner shall receive such compensation as is
43 fixed under the provisions of section 4-40. The Claims Commissioner
44 may enter into such contractual agreements, in accordance with
45 established procedures, as may be necessary for the discharge of his or
46 her duties. Subject to the provisions of section 4-32, and unless otherwise

47 provided by law, the Claims Commissioner is authorized to receive any
48 money, revenue or services from the federal government, corporations,
49 associations or individuals, including payments from the sale of printed
50 matter or any other materials or services.

51 (b) The Office of the Claims Commissioner shall be within the
52 Department of Administrative Services, provided the office shall have
53 independent decision-making authority.

54 (c) (1) The Governor shall appoint six temporary deputies to serve in
55 the Office of the Claims Commissioner. A temporary deputy shall be an
56 attorney-at-law who has experience practicing law before the courts of
57 the state of Connecticut and has trial experience. A temporary deputy
58 may not be an employee of the office of the Attorney General or have a
59 claim pending before the Claims Commissioner, either as a claimant or
60 as an attorney appearing on behalf of a claimant. Each temporary
61 deputy shall serve at the pleasure of the Governor, for a term
62 coterminous with the Governor, or until a successor is appointed and
63 qualified, whichever is longer, provided no temporary deputy may be
64 appointed or serve in such position on or after October 1, 2023.

65 (2) A temporary deputy shall receive, for each day of service, the
66 same compensation as paid to a judge trial referee under subdivision (1)
67 of subsection (f) of section 52-434 for each day of service by such referee.

68 (3) Each temporary deputy shall have decision-making authority to
69 issue a final decision to grant or deny permission to sue for each claim
70 referred to such deputy under the provisions of subsection (b) or (c) of
71 section 4-160, as amended by this act.

72 Sec. 3. Section 4-147 of the general statutes is repealed and the
73 following is substituted in lieu thereof (*Effective from passage*):

74 Any person wishing to present a claim against the state shall file with
75 the Office of the Claims Commissioner a notice of claim, in duplicate,
76 containing the following information: (1) The name and address of the
77 claimant; the name and address of his principal, if the claimant is acting

78 in a representative capacity, and the name and address of his attorney,
79 if the claimant is so represented; (2) a concise statement of the basis of
80 the claim, including the date, time, place and circumstances of the act or
81 event complained of; (3) a statement of the amount requested; and (4) a
82 request for permission to sue the state, if such permission is sought. A
83 claim exclusively setting forth a request for permission to sue the state
84 may be accompanied by supporting evidence, including, but not limited
85 to, transcripts, records, documents, reports, affidavits or memoranda. A
86 notice of claim, if sent by mail, shall be deemed to have been filed with
87 the Office of the Claims Commissioner on the date such notice of claim
88 is postmarked. Claims in excess of five thousand dollars shall be
89 accompanied by a check or money order in the sum of fifty dollars
90 payable to the Treasurer, state of Connecticut. Claims for five thousand
91 dollars or less shall be accompanied by a check or money order in the
92 sum of twenty-five dollars payable to the Treasurer, state of
93 Connecticut. Except as provided in section 4-165b, fees may be waived
94 by the Claims Commissioner for good cause but such action by the
95 Claims Commissioner shall not relieve the claimant from the obligation
96 of filing the notice of claim in timely fashion within the statute of
97 limitations under section 4-148. The Office of the Claims Commissioner
98 shall promptly deliver a copy of the notice of claim to the Attorney
99 General. Such notice shall be for informational purposes only and shall
100 not be subject to any formal or technical requirements, except as may be
101 necessary for clarity of presentation and facility of understanding.

102 Sec. 4. Subsection (b) of section 4-158 of the general statutes is
103 repealed and the following is substituted in lieu thereof (*Effective from*
104 *passage*):

105 (b) Any person who has filed a claim for more than fifty thousand
106 dollars may request the General Assembly to review a decision of the
107 Claims Commissioner (1) ordering the denial or dismissal of the claim
108 pursuant to subdivision (1) of subsection (a) of this section, including
109 denying or dismissing a claim that requests permission to sue the state,
110 or (2) ordering immediate payment of a just claim in an amount not
111 exceeding thirty-five thousand dollars pursuant to subdivision (2) of

112 subsection (a) of this section. A person who has filed a claim that has
113 been denied or dismissed by a temporary deputy pursuant to subsection
114 (d) of section 4-160, as amended by this act, may request the General
115 Assembly to review such denial or dismissal. A request for review shall
116 be in writing and filed with the Office of the Claims Commissioner not
117 later than twenty days after the date the person requesting such review
118 receives a copy of the decision. The filing of a request for review shall
119 automatically stay the decision of the Claims Commissioner or
120 temporary deputy.

121 Sec. 5. Subsections (a) and (b) of section 4-159 of the general statutes
122 are repealed and the following is substituted in lieu thereof (*Effective*
123 *from passage*):

124 (a) Not later than five days after the convening of each regular session
125 and at such other times as the speaker of the House of Representatives
126 and president pro tempore of the Senate may desire, the Office of the
127 Claims Commissioner shall submit to the General Assembly (1) all
128 claims for which the Claims Commissioner or a magistrate
129 recommended payment of a just claim in an amount exceeding thirty-
130 five thousand dollars pursuant to subdivision (3) of subsection (a) of
131 section 4-158, and (2) all claims for which a request for review has been
132 filed pursuant to subsection (b) of section 4-158, as amended by this act,
133 together with a copy of the Claims Commissioner's, [or] the magistrate's
134 or the temporary deputy's findings and the hearing record, if any, of
135 each claim so reported.

136 (b) The General Assembly shall:

137 (1) With respect to a decision of the Claims Commissioner ordering
138 the denial or dismissal of a claim pursuant to subdivision (1) of
139 subsection (a) of section 4-158 or a decision of a temporary deputy
140 ordering the denial or dismissal of a claim pursuant to subsection (d) of
141 section 4-160, as amended by this act:

142 (A) Confirm the decision; or

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

146 (2) With respect to a decision of the Claims Commissioner ordering
147 the immediate payment of a just claim in an amount not exceeding
148 thirty-five thousand dollars pursuant to subdivision (2) of subsection (a)
149 of section 4-158:

150 (A) Confirm the decision;

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

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

155 (3) With respect to a decision of the Claims Commissioner
156 recommending payment of a just claim in an amount exceeding thirty-
157 five thousand dollars pursuant to subdivision (3) of subsection (a) of
158 section 4-158:

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

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

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

165 (4) With respect to a decision of the Claims Commissioner pursuant
166 to subdivision (1), (2) or (3) of subsection (a) of section 4-158, or a
167 decision of a temporary deputy pursuant to subsection (d) of section 4-
168 160, as amended by this act, remand the claim to the Office of the Claims
169 Commissioner for such further proceedings as the General Assembly
170 may direct.

171 Sec. 6. Section 4-160 of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective from passage*):

173 (a) Whenever the Claims Commissioner deems it just and equitable,
174 the Claims Commissioner may authorize suit against the state on any
175 claim which, in the opinion of the Claims Commissioner, presents an
176 issue of law or fact under which the state, were it a private person, could
177 be liable. [Whenever a person files a claim that exclusively seeks
178 permission to sue the state, the Claims Commissioner may hold a
179 hearing on the sole issue of the state's liability. During such hearing, the
180 state may present as an affirmative defense the claimant's lack of
181 damages. The Claims Commissioner may prescribe rules pursuant to
182 section 4-157 concerning a hearing that is held solely to address the
183 state's liability under this subsection.] The Claims Commissioner may
184 grant permission to sue for a claim that exclusively seeks permission to
185 sue the state based solely on the notice of claim or any supporting
186 evidence submitted pursuant to section 4-147, as amended by this act,
187 or both, without holding a hearing, upon the filing by the attorney or
188 pro se claimant of (1) a motion for approval to assert a claim without a
189 hearing, requesting a ruling based solely on the notice of the claim and
190 any supporting evidence submitted under the provisions of this chapter,
191 and (2) an affidavit attesting to the validity of a claim. Such affidavit,
192 shall be signed, notarized and filed by both the attorney and claimant or
193 a pro se claimant, attesting to the following, in the following form: "I
194 have made a reasonable inquiry, as permitted by the circumstances,
195 which has given rise to a good faith belief that grounds exist for a suit
196 against the state. Such inquiry includes, (provide a brief description of
197 the inquiry made)". The claimant shall serve any motion for approval
198 and affidavit on the office of the Attorney General and any state agency
199 that is a subject of the claim. The state may file an opposition to the
200 motion for approval and the affidavit not later than thirty days after
201 such service of the motion and affidavit. Such opposition shall be
202 limited to opposition of the claim based solely on jurisdictional grounds,
203 including pursuant to section 4-142, as amended by this act, or
204 subsection (a) of section 4-148, or prosecutorial, judicial, quasi-judicial

205 or legislative immunity.

206 (b) Any claim exclusively requesting permission to sue the state that
207 was filed more than three years prior to the effective date of this section
208 that has not been disposed of by the Office of the Claims Commissioner,
209 shall be referred to a temporary deputy for proceedings in accordance
210 with subsection (d) of this section, unless the claimant expressly states
211 the desire to have his or her claim remain before the Claims
212 Commissioner.

213 (c) On and after July 1, 2022, if a claim exclusively requesting
214 permission to sue the state remains pending with the Office of the
215 Claims Commissioner eighteen months after such claim was filed with
216 the office, a claimant may file a notice indicating the passage of such
217 eighteen months with the Attorney General, the Governor and the joint
218 standing committee of the General Assembly having cognizance of
219 matters relating to the judiciary. The Claims Commissioner shall issue a
220 decision on such claim not later than ninety days after the filing of such
221 notice. If the Claims Commissioner does not issue a decision during
222 such ninety-day period, the claim shall be referred to a temporary
223 deputy for proceedings in accordance with subsection (d) of this section,
224 provided no claim may be referred to a temporary deputy on or after
225 July 1, 2023. The provisions of this subsection shall not apply to a claim
226 in which the parties have stipulated to an extension of time for the Office
227 of the Claims Commissioner to dispose of the claim.

228 (d) (1) If a claim is referred to a temporary deputy under subsection
229 (b) or (c) of this section, such temporary deputy shall review the notice
230 of claim, the state's notice of opposition and any discovery or other
231 supporting evidence, and may, if the temporary deputy deems it
232 necessary, hold a conference with the parties using telephonic or video
233 conferencing technology. Consideration of the state's opposition to such
234 claims shall be limited to jurisdictional grounds or prosecutorial,
235 judicial, quasi-judicial or legislative immunity. The temporary deputy
236 shall make a determination to deny or dismiss a claim or authorize a
237 claimant to sue the state, not later than ninety days after the claim is

238 referred to such temporary deputy. A temporary deputy shall authorize
239 suit against the state if the claim, in the opinion of the temporary deputy,
240 presents an issue of law or fact under which the state, were it a private
241 person, could be liable. If the resolution of the state's opposition to the
242 claim is based on a dispute of a material fact, the temporary deputy shall
243 grant permission to sue the state and preserve the state's right to pursue
244 such defense in court.

245 (2) A temporary deputy shall make a finding of fact for each claim
246 and file such finding with the order or authorization disposing of the
247 claim with the Claims Commissioner. The temporary deputy shall
248 deliver a copy of such finding and order or authorization to the claimant
249 and to the representative for the state, which representative may in
250 appropriate cases be the Attorney General.

251 (e) A claimant exclusively seeking permission to sue the state shall be
252 deemed to have been granted permission to sue the state by the Claims
253 Commissioner if the Attorney General files with the Office of the Claims
254 Commissioner a signed stipulation authorizing permission to sue the
255 state for a particular claim of the claimant.

256 [(b)] (f) In any claim alleging malpractice against the state, a state
257 hospital or against a physician, surgeon, dentist, podiatrist, chiropractor
258 or other licensed health care provider employed by the state, the
259 attorney or pro se party filing the claim may submit a certificate of good
260 faith to the Office of the Claims Commissioner in accordance with
261 section 52-190a. If such a certificate is submitted, [the Claims
262 Commissioner shall authorize suit against the state on such claim]
263 permission to sue the state shall be deemed granted by the Claims
264 Commissioner (1) upon the effective date of this section, if the certificate
265 has been filed with the Claims Commissioner prior to the effective date
266 of this section, or (2) upon the filing of the certificate with the Office of
267 the Claims Commissioner, if such certificate is filed on or after the
268 effective date or this section. In lieu of filing a notice of claim pursuant
269 to section 4-147, as amended by this act, a claimant may commence a
270 medical malpractice action against the state prior to the expiration of the

271 limitation period set forth in section 4-148 and authorization for such
272 action against the state shall be deemed granted. Any such action shall
273 be limited to medical malpractice claims only and any such action shall
274 be deemed a suit otherwise authorized by law in accordance with
275 subsection (a) of section 4-142, as amended by this act. The provisions
276 of this subsection shall apply to any claim alleging malpractice against
277 the state that was timely filed with the Claims Commissioner and
278 remains pending with said commissioner, regardless of whether such
279 claim was filed before, on or after October 1, 2019.

280 (g) After completion of discovery in a suit filed in the Superior Court
281 after receiving permission to sue the state on the basis of an affidavit
282 attesting to the validity of a claim filed in accordance with subsection (a)
283 of this section, if the court determines that such affidavit was not made
284 in good faith, that no justiciable issue was presented against the state
285 and that the state cooperated in good faith with the claimant by
286 providing informal discovery, the court, upon motion or on its own
287 initiative, shall impose upon the attorney and claimant or pro se
288 claimant who signed such affidavit an appropriate sanction, which may
289 include an order to pay to the state the reasonable expenses incurred by
290 the state because of the filing of the suit. The court may also submit the
291 matter to the appropriate authority for disciplinary review of any
292 attorney who submitted the affidavit.

293 [(c)] (h) In each action authorized by the Claims Commissioner or a
294 temporary deputy, or any action where permission to sue the state has
295 been deemed to have been granted by the Claims Commissioner,
296 pursuant to [subsection (a) or (b)] subsections (a) to (f), inclusive, of this
297 section or by the General Assembly pursuant to section 4-159, as
298 amended by this act, or 4-159a, the claimant shall allege such
299 authorization or permission and the date on which it was granted,
300 except that evidence of such authorization or permission shall not be
301 admissible in such action as evidence of the state's liability. [The] Except
302 as provided in subsection (d) of this section, (1) the state waives its
303 immunity from liability and from suit in each such action and waives all
304 defenses which might arise from the eleemosynary or governmental

305 nature of the activity complained of, [The] and (2) the rights and
306 liability of the state in each such action shall be coextensive with and
307 shall equal the rights and liability of private persons in like
308 circumstances.

309 [(d)] (i) No such action shall be brought but within one year from the
310 date such authorization becomes effective or permission to sue is
311 granted, whichever date is later. With respect to any claim presented to
312 the Office of the Claims Commissioner for which authorization or
313 permission to sue is granted, any statute of limitation applicable to such
314 action shall be tolled until the date such authorization or permission to
315 sue is granted. The claimant shall bring such action against the state as
316 party defendant in the judicial district in which the claimant resides or,
317 if the claimant is not a resident of this state, in the judicial district of
318 Hartford or in the judicial district in which the claim arose.

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

321 [(f)] (k) Issues arising in such actions shall be tried to the court
322 without a jury.

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

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

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

332 [(j)] (o) The clerk of the court in which judgment is entered against
333 the state shall forward a certified copy of such judgment to the
334 Comptroller. The Attorney General shall certify to the Comptroller

335 when the time allowed by law for proceeding subsequent to final
336 judgment has expired and the Attorney General shall designate the state
337 agency involved in the action. Upon receipt of such judgment and
338 certification the Comptroller shall make payment as follows: Amounts
339 directed by law to be paid from a special fund shall be paid from such
340 special fund; amounts awarded upon contractual claims for goods or
341 services furnished or for property leased shall be paid from the
342 appropriation of the agency which received such goods or services or
343 occupied such property; all other amounts shall be paid from such
344 appropriation as the General Assembly may have made for the payment
345 of claims.

346 [(k)] (p) Not later than five days after the convening of each regular
347 session, the Attorney General shall report to the joint standing
348 committee of the General Assembly having cognizance of matters
349 relating to the judiciary on the status and disposition of all actions
350 authorized pursuant to this section or section 4-159, as amended by this
351 act, or brought against the state under any other provision of law and in
352 which the interests of the state are represented by the Attorney General.
353 The report shall include: (1) The number of such actions pending in state
354 and federal court, categorized by the alleged ground for the action, (2)
355 the number of new actions brought in the preceding year in state and
356 federal court, categorized by the alleged ground for the action, (3) the
357 number of actions disposed of in the preceding year, categorized by the
358 ground for the action that was disposed of and whether the action was
359 disposed of by settlement or litigation to final judgment, and the amount
360 paid for actions within the respective categories, and (4) such other
361 information as may be requested, from time to time, by the joint
362 standing committee of the General Assembly having cognizance of
363 matters relating to the judiciary. The report shall identify each action
364 disposed of by payment of an amount exceeding one hundred thousand
365 dollars.

366 Sec. 7. Section 3-125a of the general statutes is repealed and the
367 following is substituted in lieu thereof (*Effective from passage*):

368 (a) Notwithstanding the provisions of subsection [(h)] (m) of section
 369 4-160, as amended by this act, the Attorney General shall not enter into
 370 any agreement or stipulation in connection with a lawsuit to which the
 371 state is a party that contains any provision which requires an
 372 expenditure from the General Fund budget in an amount in excess of
 373 two million five hundred thousand dollars over the term of the
 374 agreement or stipulation, unless the General Assembly, by resolution,
 375 accepts the terms of such provision. The General Assembly may reject
 376 such provision by a three-fifths vote of each house. Such provision shall
 377 be deemed approved if the General Assembly fails to vote to approve or
 378 reject such provision within thirty days of the date of submittal pursuant
 379 to subsection (b) of this section.

380 (b) Each such agreement or stipulation shall be submitted to the
 381 General Assembly by the Attorney General and shall be referred to the
 382 committees of cognizance which shall report thereon by resolution."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4-142
Sec. 2	<i>from passage</i>	4-142a
Sec. 3	<i>from passage</i>	4-147
Sec. 4	<i>from passage</i>	4-158(b)
Sec. 5	<i>from passage</i>	4-159(a) and (b)
Sec. 6	<i>from passage</i>	4-160
Sec. 7	<i>from passage</i>	3-125a