



General Assembly

Amendment

January Session, 2021

LCO No. 9090



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 Section 4-142 of the general statutes is repealed and the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 Section 4-142a of the general statutes is repealed and the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 is admitted to practice before the courts of the state
57 of Connecticut and has trial experience. A temporary deputy may not
58 be an employee of the office of the Attorney General or have a claim
59 pending before the Claims Commissioner, either as a claimant or as an
60 attorney appearing on behalf of a claimant. Each temporary deputy shall
61 serve at the pleasure of the Governor, for a term coterminous with the
62 Governor, or until a successor is appointed and qualified, whichever is
63 longer, provided no temporary deputy may be appointed or serve in
64 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
69 over each claim referred to such deputy under the provisions of
70 subsection (b) or (c) of section 4-160, as amended by this act.

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 Section 4-147 of the general statutes is repealed and the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

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

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

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

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

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

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

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

135 (b) The General Assembly shall:

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

141 (A) Confirm the decision; or

142 (B) Vacate the decision and, in lieu thereof, (i) order the payment of

143 the claim in a specified amount, or (ii) authorize the claimant to sue the
144 state;

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

149 (A) Confirm the decision;

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

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

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

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

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

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

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

170 Sec. 6. Section 4-160 of the general statutes is repealed and the

171 following is substituted in lieu thereof (*Effective from passage*):

172 (a) Whenever the Claims Commissioner deems it just and equitable,
173 the Claims Commissioner may authorize suit against the state on any
174 claim which, in the opinion of the Claims Commissioner, presents an
175 issue of law or fact under which the state, were it a private person, could
176 be liable. [Whenever a person files a claim that exclusively seeks
177 permission to sue the state, the Claims Commissioner may hold a
178 hearing on the sole issue of the state's liability. During such hearing, the
179 state may present as an affirmative defense the claimant's lack of
180 damages. The Claims Commissioner may prescribe rules pursuant to
181 section 4-157 concerning a hearing that is held solely to address the
182 state's liability under this subsection.] The Claims Commissioner may
183 grant permission for a claim that exclusively seeks permission to sue the
184 state based solely on the notice of claim or any supporting evidence
185 submitted pursuant to section 4-147, as amended by this act, or both,
186 without holding a hearing, upon the filing by the attorney or pro se
187 claimant of (1) a motion for approval to assert a claim without a hearing,
188 requesting a ruling based solely on the notice of the claim and any
189 supporting evidence submitted under the provisions of this chapter,
190 and (2) an affidavit attesting to the validity of a claim. Such affidavit,
191 shall be signed and filed by both the attorney and claimant or a pro se
192 claimant, attesting to the following, in the following form: "I have made
193 a reasonable inquiry, as permitted by the circumstances, which has
194 given rise to a good faith belief that grounds exist for a suit against the
195 state. Such inquiry includes, (provide a brief description of the inquiry
196 made)". Any notice of opposition filed by the Attorney General or a state
197 agency or department pursuant to section 4-149 in response to a claim
198 that exclusively seeks permission to sue the state shall be limited to
199 opposition of the claim based solely on jurisdictional grounds or
200 prosecutorial, judicial, quasi-judicial or legislative immunity.

201 (b) Any claim exclusively requesting permission to sue the state that
202 was filed more than three years prior to the effective date of this section
203 that has not been disposed of by the Office of the Claims Commissioner,
204 shall be referred to a temporary deputy for proceedings in accordance

205 with subsection (d) of this section, unless the claimant expressly states
206 the desire to have his or her claim remain before the Claims
207 Commissioner.

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

223 (d) (1) If a claim is referred to a temporary deputy under subsection
224 (b) or (c) of this section, such temporary deputy shall review the notice
225 of claim, the state's notice of opposition and any discovery or other
226 supporting evidence, and may, if the temporary deputy deems it
227 necessary, hold a conference with the parties using telephonic or video
228 conferencing technology. Consideration of the state's opposition to such
229 claims shall be limited to jurisdictional grounds or prosecutorial,
230 judicial, quasi-judicial or legislative immunity. The temporary deputy
231 shall make a determination to deny or dismiss a claim or authorize a
232 claimant to sue the state, not later than ninety days after the claim is
233 referred to such temporary deputy. A temporary deputy shall authorize
234 suit against the state if the claim, in the opinion of the temporary deputy,
235 presents an issue of law or fact under which the state, were it a private
236 person, could be liable. If the resolution of the state's opposition to the
237 claim is based on a dispute of a material fact, the temporary deputy shall
238 grant permission to sue the state and preserve the state's right to pursue

239 such defense in court.

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

246 (e) A claimant exclusively seeking permission to sue the state shall be
247 deemed to have been granted permission to sue the state by the Claims
248 Commissioner if the Attorney General files with the Office of the Claims
249 Commissioner a signed stipulation authorizing permission to sue the
250 state for a particular claim of the claimant.

251 [(b)] (f) In any claim alleging malpractice against the state, a state
252 hospital or against a physician, surgeon, dentist, podiatrist, chiropractor
253 or other licensed health care provider employed by the state, the
254 attorney or pro se party filing the claim may submit a certificate of good
255 faith to the Office of the Claims Commissioner in accordance with
256 section 52-190a. If such a certificate is submitted, [the Claims
257 Commissioner shall authorize suit against the state on such claim]
258 permission to sue the state shall be deemed granted by the Claims
259 Commissioner (1) upon the effective date of this section, if the certificate
260 has been filed with the Claims Commissioner prior to the effective date
261 of this section, or (2) upon the filing of the certificate with the Office of
262 the Claims Commissioner, if such certificate is filed on or after the
263 effective date or this section. In lieu of filing a notice of claim pursuant
264 to section 4-147, as amended by this act, a claimant may commence a
265 medical malpractice action against the state prior to the expiration of the
266 limitation period set forth in section 4-148 and authorization for such
267 action against the state shall be deemed granted. Any such action shall
268 be limited to medical malpractice claims only and any such action shall
269 be deemed a suit otherwise authorized by law in accordance with
270 subsection (a) of section 4-142, as amended by this act. The provisions
271 of this subsection shall apply to any claim alleging malpractice against

272 the state that was timely filed with the Claims Commissioner and
273 remains pending with said commissioner, regardless of whether such
274 claim was filed before, on or after October 1, 2019.

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

288 [(c)] (h) In each action authorized by the Claims Commissioner or a
289 temporary deputy, or any action where permission to sue the state has
290 been deemed to have been granted by the Claims Commissioner,
291 pursuant to [subsection (a) or (b)] subsections (a) to (f), inclusive, of this
292 section or by the General Assembly pursuant to section 4-159, as
293 amended by this act, or 4-159a, the claimant shall allege such
294 authorization or permission and the date on which it was granted,
295 except that evidence of such authorization or permission shall not be
296 admissible in such action as evidence of the state's liability. [The] Except
297 as provided in subsection (d) of this section, (1) the state waives its
298 immunity from liability and from suit in each such action and waives all
299 defenses which might arise from the eleemosynary or governmental
300 nature of the activity complained of, [The] and (2) the rights and
301 liability of the state in each such action shall be coextensive with and
302 shall equal the rights and liability of private persons in like
303 circumstances.

304 [(d)] (i) No such action shall be brought but within one year from the

305 date such authorization becomes effective or permission to sue is
306 granted, whichever date is later. With respect to any claim presented to
307 the Office of the Claims Commissioner for which authorization or
308 permission to sue is granted, any statute of limitation applicable to such
309 action shall be tolled until the date such authorization or permission to
310 sue is granted. The claimant shall bring such action against the state as
311 party defendant in the judicial district in which the claimant resides or,
312 if the claimant is not a resident of this state, in the judicial district of
313 Hartford or in the judicial district in which the claim arose.

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

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

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

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

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

327 [(j)] (o) The clerk of the court in which judgment is entered against
328 the state shall forward a certified copy of such judgment to the
329 Comptroller. The Attorney General shall certify to the Comptroller
330 when the time allowed by law for proceeding subsequent to final
331 judgment has expired and the Attorney General shall designate the state
332 agency involved in the action. Upon receipt of such judgment and
333 certification the Comptroller shall make payment as follows: Amounts
334 directed by law to be paid from a special fund shall be paid from such
335 special fund; amounts awarded upon contractual claims for goods or

336 services furnished or for property leased shall be paid from the
337 appropriation of the agency which received such goods or services or
338 occupied such property; all other amounts shall be paid from such
339 appropriation as the General Assembly may have made for the payment
340 of claims.

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

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

363 (a) Notwithstanding the provisions of subsection [(h)] (m) of section
364 4-160, as amended by this act, the Attorney General shall not enter into
365 any agreement or stipulation in connection with a lawsuit to which the
366 state is a party that contains any provision which requires an
367 expenditure from the General Fund budget in an amount in excess of
368 two million five hundred thousand dollars over the term of the

369 agreement or stipulation, unless the General Assembly, by resolution,
370 accepts the terms of such provision. The General Assembly may reject
371 such provision by a three-fifths vote of each house. Such provision shall
372 be deemed approved if the General Assembly fails to vote to approve or
373 reject such provision within thirty days of the date of submittal pursuant
374 to subsection (b) of this section.

375 (b) Each such agreement or stipulation shall be submitted to the
376 General Assembly by the Attorney General and shall be referred to the
377 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