



**Substitute House Bill No. 6506**

**Public Act No. 21-91**

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

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

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 Section 4-142 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

(b) The Office of the Claims Commissioner shall consist of the Claims Commissioner, six temporary deputies and such administrative staff as may be provided by the Department of Administrative Services. The Claims Commissioner, a temporary deputy or a magistrate assigned to assist the Claims Commissioner pursuant to section 4-142b shall hear and determine all claims against the state, except as otherwise provided

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in subsection (a) of this section. Such claims shall be heard and determined in accordance with the rules prescribed by the Claims Commissioner pursuant to section 4-157, except as may be provided in section 4-160, as amended by this act.

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 Section 4-142a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

(2) The Claims Commissioner shall receive such compensation as is fixed under the provisions of section 4-40. The Claims Commissioner may enter into such contractual agreements, in accordance with established procedures, as may be necessary for the discharge of his or her duties. Subject to the provisions of section 4-32, and unless otherwise provided by law, the Claims Commissioner is authorized to receive any money, revenue or services from the federal government, corporations, associations or individuals, including payments from the sale of printed matter or any other materials or services.

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

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

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

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

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

Any person wishing to present a claim against the state shall file with the Office of the Claims Commissioner a notice of claim, in duplicate, containing the following information: (1) The name and address of the claimant; the name and address of his principal, if the claimant is acting in a representative capacity, and the name and address of his attorney, if the claimant is so represented; (2) a concise statement of the basis of

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

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

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

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exceeding thirty-five thousand dollars pursuant to subdivision (2) of subsection (a) of this section. A person who has filed a claim that has been denied or dismissed by a temporary deputy pursuant to subsection (d) of section 4-160, as amended by this act, may request the General Assembly to review such denial or dismissal. A request for review shall be in writing and filed with the Office of the Claims Commissioner not later than twenty days after the date the person requesting such review receives a copy of the decision. The filing of a request for review shall automatically stay the decision of the Claims Commissioner or temporary deputy.

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

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

(b) The General Assembly shall:

(1) With respect to a decision of the Claims Commissioner ordering the denial or dismissal of a claim pursuant to subdivision (1) of subsection (a) of section 4-158 or a decision of a temporary deputy ordering the denial or dismissal of a claim pursuant to subsection (d) of

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section 4-160, as amended by this act:

(A) Confirm the decision; or

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

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

(A) Confirm the decision;

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

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

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

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

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

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

(4) With respect to a decision of the Claims Commissioner pursuant

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

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

(a) Whenever the Claims Commissioner deems it just and equitable, the Claims Commissioner may authorize suit against the state on any claim which, in the opinion of the Claims Commissioner, presents an issue of law or fact under which the state, were it a private person, could be liable. [Whenever a person files a claim that exclusively seeks permission to sue the state, the Claims Commissioner may hold a hearing on the sole issue of the state's liability. During such hearing, the state may present as an affirmative defense the claimant's lack of damages. The Claims Commissioner may prescribe rules pursuant to section 4-157 concerning a hearing that is held solely to address the state's liability under this subsection.] The Claims Commissioner may grant permission to sue for a claim that exclusively seeks permission to sue the state based solely on the notice of claim or any supporting evidence submitted pursuant to section 4-147, as amended by this act, or both, without holding a hearing, upon the filing by the attorney or pro se claimant of (1) a motion for approval to assert a claim without a hearing, requesting a ruling based solely on the notice of the claim and any supporting evidence submitted under the provisions of this chapter, and (2) an affidavit attesting to the validity of a claim. Such affidavit, shall be signed, notarized and filed by both the attorney and claimant or a pro se claimant, attesting to the following, in the following form: "I have made a reasonable inquiry, as permitted by the circumstances, which has given rise to a good faith belief that grounds exist for a suit against the state. Such inquiry includes, (provide a brief description of

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the inquiry made)". The claimant shall serve any motion for approval and affidavit on the office of the Attorney General and any state agency that is a subject of the claim. The state may file an opposition to the motion for approval and the affidavit not later than thirty days after such service of the motion and affidavit. Such opposition shall be limited to opposition of the claim based solely on jurisdictional grounds, including pursuant to section 4-142, as amended by this act, or subsection (a) of section 4-148, or prosecutorial, judicial, quasi-judicial or legislative immunity.

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

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

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

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

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

~~[(b)]~~ (f) In any claim alleging malpractice against the state, a state hospital or against a physician, surgeon, dentist, podiatrist, chiropractor or other licensed health care provider employed by the state, the

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attorney or pro se party filing the claim may submit a certificate of good faith to the Office of the Claims Commissioner in accordance with section 52-190a. If such a certificate is submitted, [the Claims Commissioner shall authorize suit against the state on such claim] permission to sue the state shall be deemed granted by the Claims Commissioner (1) upon the effective date of this section, if the certificate has been filed with the Claims Commissioner prior to the effective date of this section, or (2) upon the filing of the certificate with the Office of the Claims Commissioner, if such certificate is filed on or after the effective date of this section. In lieu of filing a notice of claim pursuant to section 4-147, as amended by this act, a claimant may commence a medical malpractice action against the state prior to the expiration of the limitation period set forth in section 4-148 and authorization for such action against the state shall be deemed granted. Any such action shall be limited to medical malpractice claims only and any such action shall be deemed a suit otherwise authorized by law in accordance with subsection (a) of section 4-142, as amended by this act. The provisions of this subsection shall apply to any claim alleging malpractice against the state that was timely filed with the Claims Commissioner and remains pending with said commissioner, regardless of whether such claim was filed before, on or after October 1, 2019.

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

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matter to the appropriate authority for disciplinary review of any attorney who submitted the affidavit.

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

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

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

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

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

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

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

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

[(k)] (p) Not later than five days after the convening of each regular session, the Attorney General shall report to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary on the status and disposition of all actions

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authorized pursuant to this section or section 4-159, as amended by this act, or brought against the state under any other provision of law and in which the interests of the state are represented by the Attorney General. The report shall include: (1) The number of such actions pending in state and federal court, categorized by the alleged ground for the action, (2) the number of new actions brought in the preceding year in state and federal court, categorized by the alleged ground for the action, (3) the number of actions disposed of in the preceding year, categorized by the ground for the action that was disposed of and whether the action was disposed of by settlement or litigation to final judgment, and the amount paid for actions within the respective categories, and (4) such other information as may be requested, from time to time, by the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary. The report shall identify each action disposed of by payment of an amount exceeding one hundred thousand dollars.

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

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

(b) Each such agreement or stipulation shall be submitted to the

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General Assembly by the Attorney General and shall be referred to the committees of cognizance which shall report thereon by resolution.

Approved June 28, 2021