



House of Representatives

File No. 852

General Assembly

January Session, 2023

(Reprint of File No. 653)

Substitute House Bill No. 6876
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 2, 2023

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

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

1 Section 1. Section 4-142 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2023*):

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

12 (b) The Office of the Claims Commissioner shall consist of the Claims

13 Commissioner, and, within available appropriations, the Deputy
14 Claims Commissioner, not more than six temporary deputies and such
15 administrative staff as may be provided by the Department of
16 Administrative Services. The Claims Commissioner, the Deputy Claims
17 Commissioner, or a temporary deputy [or a magistrate] assigned to
18 assist the Claims Commissioner pursuant to section 4-142b, as amended
19 by this act, shall hear and determine all claims against the state, except
20 as otherwise provided in subsection (a) of this section. Such claims shall
21 be heard and determined in accordance with the rules prescribed by the
22 Claims Commissioner pursuant to section 4-157, except as may be
23 provided in 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 Section 4-142a of the general statutes is repealed and the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 July 1, 2023*):

26 (a) (1) The Claims Commissioner shall be [appointed] nominated by
27 the Governor with the advice and consent of the General Assembly to
28 serve for a term of four years from the first day in July [in] of the year of
29 [his or her] such appointment and until [his or her] a successor has been
30 appointed and has qualified. [The Claims Commissioner shall be an
31 attorney-at-law and shall have been admitted to practice before the
32 courts of the state of Connecticut for at least five years prior to his or her
33 appointment. The Claims Commissioner serving on June 28, 2021, may
34 continue to serve until the expiration of his or her term. On and after
35 June 28, 2021, each] Each nomination for appointment as Claims
36 Commissioner by the Governor shall be referred, without debate, to the
37 joint standing committee of the General Assembly having cognizance of
38 matters relating to the judiciary, which shall report on each appointment
39 not later than thirty days after the date of reference. Each appointment
40 by the General Assembly of the Claims Commissioner shall be by
41 concurrent resolution. The Claims Commissioner shall be an attorney-
42 at-law and shall have been admitted to practice before the courts of the
43 state of Connecticut for at least five years prior to such appointment.

44 (2) The Claims Commissioner shall receive such compensation as is
45 fixed under the provisions of section 4-40. The Claims Commissioner

46 may enter into such contractual agreements, in accordance with
47 established procedures, as may be necessary for the discharge of [his or
48 her] the commissioner's duties. Subject to the provisions of section 4-32,
49 and unless otherwise provided by law, the Claims Commissioner is
50 authorized to receive any money, revenue or services from the federal
51 government, corporations, associations or individuals, including
52 payments from the sale of printed matter or any other materials or
53 services.

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

57 (c) (1) The Governor [shall] may, within available appropriations,
58 appoint not more than six temporary deputies to serve in the Office of
59 the Claims Commissioner. A temporary deputy shall be an attorney-at-
60 law who has experience practicing law before the courts of the state of
61 Connecticut and has trial experience. A temporary deputy may not be
62 an employee of the office of the Attorney General or have a claim
63 pending before the Claims Commissioner, either as a claimant or as an
64 attorney appearing on behalf of a claimant. Each temporary deputy shall
65 serve at the pleasure of the Governor, for a term coterminous with the
66 Governor, or until a successor is appointed and qualified, whichever is
67 longer, provided no temporary deputy may be appointed or serve in
68 such position on or after [October 1, 2023] March 1, 2026.

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

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

76 (d) The Claims Commissioner shall, within available appropriations,
77 appoint a Deputy Claims Commissioner who shall be an attorney-at-

78 law qualified by training and experience for the duties of the Office of
79 the Claims Commissioner and shall, in the absence, disability or
80 disqualification of the Claims Commissioner, perform all the functions
81 and have all the powers and duties of said office and such other duties
82 as may be prescribed. The position of Deputy Claims Commissioner
83 shall be exempt from the classified service. The Deputy Claims
84 Commissioner shall serve until a successor is appointed by the Claims
85 Commissioner. The term of the Deputy Claims Commissioner shall not
86 be coterminous with that of the Claims Commissioner, instead the
87 Deputy Claims Commissioner may be replaced upon the appointment
88 of a new Claims Commissioner in accordance with the provisions of
89 subdivision (1) of subsection (a) of this section.

90 Sec. 3. Section 4-142b of the general statutes is repealed and the
91 following is substituted in lieu thereof (*Effective July 1, 2023*):

92 The Office of the Claims Commissioner shall maintain a permanent
93 office in Hartford County in such suitable space as the Commissioner of
94 Administrative Services provides. All papers required to be filed with
95 the Office of the Claims Commissioner shall be delivered to such office.
96 The Claims Commissioner may [designate one or more magistrates who
97 shall be available to the Office of the Claims Commissioner] assign a
98 temporary deputy to hear a claim and issue a decision concerning the
99 final disposition of a claim against the state, or make recommendations
100 to the Claims Commissioner or Deputy Claims Commissioner
101 concerning the final disposition of a claim as provided for in this
102 chapter. [The Claims Commissioner may appoint any magistrate who is
103 on the list of available magistrates maintained by the Chief Court
104 Administrator. A magistrate appointed by the Claims Commissioner
105 may review, hear and decide a claim, or make a recommendation to the
106 Claims Commissioner concerning the final disposition of a claim. The
107 Claims Commissioner shall establish such rules as he or she deems
108 necessary to provide for the appointment of a magistrate to hear and
109 decide matters pursuant to the provisions of this chapter. Such rules
110 may include limitations on the types of matters that may be heard and
111 decided by a magistrate and may provide for the issuance of a

112 recommendation by a magistrate concerning the final disposition of a
113 claim that is subject to review and approval by the Claims
114 Commissioner.]

115 Sec. 4. Section 4-151 of the general statutes is repealed and the
116 following is substituted in lieu thereof (*Effective July 1, 2023*):

117 (a) Claims shall be [heard] considered as soon as practicable after they
118 are filed. The following claims shall be privileged with respect to
119 assignment for hearing: (1) Claims by persons who are sixty-five years
120 or older or who reach such age during the pendency of the claim, (2)
121 claims by persons who are terminally ill, as defined in section 52-191c,
122 and (3) claims by executors or administrators of estates. Hearings may
123 be held at the Office of the Claims Commissioner, at any available
124 hearing facility in the State Capitol or Legislative Office Building, upon
125 request at any courthouse serving a judicial district or geographical area
126 or city or town hall in the state or at such other suitable place as the
127 Claims Commissioner, the Deputy Claims Commissioner or a
128 [magistrate] temporary deputy finds is convenient and just to the
129 claimant and to the Attorney General.

130 (b) The Claims Commissioner, the Deputy Claims Commissioner or
131 a [magistrate] temporary deputy may call witnesses, examine and cross-
132 examine any witness, require information not offered by the claimant or
133 the Attorney General and stipulate matters to be argued. The Claims
134 Commissioner, the Deputy Claims Commissioner or a [magistrate]
135 temporary deputy shall not be bound by any law or rule of evidence,
136 except the rules prescribed by the Claims Commissioner pursuant to
137 section 4-157.

138 (c) The Claims Commissioner, the Deputy Claims Commissioner or a
139 [magistrate] temporary deputy may administer oaths, cause depositions
140 to be taken, issue subpoenas and order inspection and disclosure of
141 books, papers, records and documents. Upon good cause shown, any
142 such order or subpoena may be quashed by the Claims Commissioner,
143 the Deputy Claims Commissioner or a [magistrate] temporary deputy.

144 (d) If any person fails to respond to a subpoena, the Claims
145 Commissioner, the Deputy Claims Commissioner or a [magistrate]
146 temporary deputy may issue a *capias*, directed to a state marshal to
147 arrest such person and bring such person before the Claims
148 Commissioner, the Deputy Claims Commissioner or a [magistrate]
149 temporary deputy to testify.

150 (e) If any person refuses to testify or to produce any relevant,
151 unprivileged book, paper, record or document, the Claims
152 Commissioner, the Deputy Claims Commissioner or a [magistrate]
153 temporary deputy shall certify such fact to the Attorney General, who
154 shall apply to the superior court for the judicial district in which such
155 person resides for an order compelling compliance. Further refusal of
156 such person shall be punished as provided by section 2-46. If such
157 person is the claimant, the Claims Commissioner, the Deputy Claims
158 Commissioner or a temporary deputy shall summarily dismiss the claim
159 and order it forfeited to the state.

160 (f) When subpoenaed by the Claims Commissioner, the Deputy
161 Claims Commissioner or a [magistrate, witnesses] temporary deputy, a
162 witness shall be offered the fees and mileage allowances authorized by
163 section 52-260, provided no such fee or allowance shall be paid to any
164 state officer or employee who appears on behalf of the state.

165 Sec. 5. Section 4-151a of the general statutes is repealed and the
166 following is substituted in lieu thereof (*Effective July 1, 2023*):

167 [On his or her own motion] Upon the motion of the Claims
168 Commissioner, the Deputy Claims Commissioner, or a temporary
169 deputy, or at the request of the claimant or the representative for the
170 state, which representative may in appropriate cases be the Attorney
171 General, the Claims Commissioner, the Deputy Claims Commissioner
172 or a [magistrate] temporary deputy may waive the hearing of any claim
173 for ten thousand dollars or less and proceed upon affidavits filed by the
174 claimant and the state agency concerned.

175 Sec. 6. Section 4-152 of the general statutes is repealed and the

176 following is substituted in lieu thereof (*Effective July 1, 2023*):

177 If in the course of any proceeding any person is guilty of misbehavior
178 which obstructs such proceeding, [he or she] such person may be
179 excluded from further participation [therein] in such hearing. If the
180 miscreant is the claimant or [his or her] the claimant's attorney, the
181 Claims Commissioner, the Deputy Claims Commissioner or a
182 [magistrate] temporary deputy may summarily terminate the
183 proceeding, and the Claims Commissioner, Deputy Claims
184 Commissioner or temporary deputy may dismiss the claim and order it
185 forfeited to the state.

186 Sec. 7. Subsection (a) of section 4-154 of the general statutes is
187 repealed and the following is substituted in lieu thereof (*Effective July 1,*
188 *2023*):

189 (a) Not later than ninety days after hearing a claim, the Claims
190 Commissioner, the Deputy Claims Commissioner or a temporary
191 deputy shall render a decision as provided in subsection (a) of section
192 4-158, as amended by this act. The Claims Commissioner, the Deputy
193 Claims Commissioner or [the magistrate] a temporary deputy shall
194 make a finding of fact for each claim and file such finding with the order,
195 recommendation or authorization disposing of the claim. The Office of
196 the Claims Commissioner shall [deliver] provide a copy of such finding
197 and order, recommendation or authorization to the claimant and to the
198 representative for the state, which representative may in appropriate
199 cases be the Attorney General.

200 Sec. 8. Subsections (a) and (b) of section 4-158 of the general statutes
201 are repealed and the following is substituted in lieu thereof (*Effective July*
202 *1, 2023*):

203 (a) The Claims Commissioner, the Deputy Claims Commissioner or
204 a temporary deputy may (1) order that a claim be denied or dismissed,
205 (2) order immediate payment of a just claim in an amount not exceeding
206 thirty-five thousand dollars, (3) recommend to the General Assembly
207 payment of a just claim in an amount exceeding thirty-five thousand

208 dollars, or (4) authorize a claimant to sue the state, as provided in section
209 4-160, as amended by this act.

210 (b) Any person who has filed a claim [for more than fifty thousand
211 dollars] may request the General Assembly to review a decision of the
212 Claims Commissioner, the Deputy Claims Commissioner or a
213 temporary deputy (1) ordering the denial or dismissal of the claim
214 pursuant to subdivision (1) of subsection (a) of this section, including
215 denying or dismissing a claim that requests permission to sue the state,
216 or (2) ordering immediate payment of a just claim in an amount not
217 exceeding thirty-five thousand dollars pursuant to subdivision (2) of
218 subsection (a) of this section. A person who has filed a claim that has
219 been denied or dismissed by a temporary deputy pursuant to subsection
220 (d) of section 4-160, as amended by this act, may request the General
221 Assembly to review such denial or dismissal. A request for review shall
222 be in writing and filed with the Office of the Claims Commissioner not
223 later than twenty days after the date the person requesting such review
224 receives a copy of the decision. The filing of a request for review shall
225 automatically stay the decision of the Claims Commissioner or
226 temporary deputy.

227 Sec. 9. Section 4-159 of the general statutes is repealed and the
228 following is substituted in lieu thereof (*Effective July 1, 2023*):

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

241 record, if any, of each claim so reported.

242 (b) The General Assembly shall:

243 (1) With respect to a decision of the Claims Commissioner, the
244 Deputy Claims Commissioner or a temporary deputy ordering the
245 denial or dismissal of a claim pursuant to subdivision (1) of subsection
246 (a) of section 4-158, as amended by this act; or a decision of a temporary
247 deputy ordering the denial or dismissal of a claim pursuant to
248 subsection (d) of section 4-160, as amended by this act:

249 (A) Confirm the decision; or

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

253 (2) With respect to a decision of the Claims Commissioner ordering
254 the immediate payment of a just claim in an amount not exceeding
255 thirty-five thousand dollars pursuant to subdivision (2) of subsection (a)
256 of section 4-158, as amended by this act:

257 (A) Confirm the decision;

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

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

262 (3) With respect to a decision of the Claims Commissioner, the
263 Deputy Claims Commissioner or a temporary deputy recommending
264 payment of a just claim in an amount exceeding thirty-five thousand
265 dollars pursuant to subdivision (3) of subsection (a) of section 4-158, as
266 amended by this act:

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

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

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

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

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

285 (d) If the General Assembly orders the payment of a claim, the Office
286 of the Claims Commissioner shall [deliver to the Comptroller a notice
287 of] provide a copy of the order to the Comptroller and the Comptroller
288 shall make payment in the manner prescribed for payment of an order
289 of the Claims Commissioner pursuant to section 4-158, as amended by
290 this act.

291 (e) The review by the General Assembly of claims submitted to it by
292 the Office of the Claims Commissioner under this section shall be
293 conducted in accordance with such procedures as the General Assembly
294 may prescribe.

295 Sec. 10. Section 4-160 of the general statutes is repealed and the
296 following is substituted in lieu thereof (*Effective July 1, 2023*):

297 (a) Whenever the Claims Commissioner deems it just and equitable,
298 the Claims Commissioner, the Deputy Claims Commissioner or a

299 temporary deputy may authorize suit against the state on any claim
300 which, in the opinion of the Claims Commissioner, presents an issue of
301 law or fact under which the state, were it a private person, could be
302 liable. The Claims Commissioner may grant permission to sue for a
303 claim that exclusively seeks permission to sue the state based solely on
304 the notice of claim or any supporting evidence submitted pursuant to
305 section 4-147, as amended by this act, or both, without holding a
306 hearing, upon the filing by the attorney or pro se claimant of (1) a motion
307 for approval to assert a claim without a hearing, requesting a ruling
308 based solely on the notice of the claim and any supporting evidence
309 submitted under the provisions of this chapter, and (2) an affidavit
310 attesting to the validity of a claim. Such affidavit shall be signed,
311 notarized and filed by both the attorney and claimant or a pro se
312 claimant, attesting to the following, in the following form: "I have made
313 a reasonable inquiry, as permitted by the circumstances, which has
314 given rise to a good faith belief that grounds exist for a suit against the
315 state. Such inquiry includes (provide a brief description of the inquiry
316 made)". The claimant shall serve any motion for approval and affidavit
317 on the office of the Attorney General and any state agency that is a
318 subject of the claim. The state may file an opposition to the motion for
319 approval and the affidavit not later than thirty days after such service of
320 the motion and affidavit. Such opposition shall be limited to opposition
321 of the claim based solely on jurisdictional grounds, including pursuant
322 to section 4-142, as amended by this act, or subsection (a) of section 4-
323 148, or prosecutorial, judicial, quasi-judicial or legislative immunity.

324 (b) Any claim exclusively requesting permission to sue the state that
325 was filed more than three years prior to ~~June 28, 2021~~ July 1, 2023, that
326 has not been disposed of by the Office of the Claims Commissioner, shall
327 be referred to a temporary deputy for proceedings in accordance with
328 subsection (d) of this section, unless the claimant expressly states the
329 desire to have ~~his or her~~ such claim remain before the Claims
330 Commissioner.

331 (c) ~~On and after July 1, 2022, if~~ If a claim exclusively requesting
332 permission to sue the state remains pending with the Office of the

333 Claims Commissioner eighteen months after the date on which such
334 claim was filed with the office, a claimant may file a notice indicating
335 the passage of such eighteen months with the Attorney General, the
336 Governor and the joint standing committee of the General Assembly
337 having cognizance of matters relating to the judiciary. The Claims
338 Commissioner shall issue a decision on such claim not later than ninety
339 days after the filing of such notice. If the Claims Commissioner does not
340 issue a decision during such ninety-day period, the claim shall be
341 referred to a temporary deputy for proceedings in accordance with
342 subsection (d) of this section. [provided no claim may be referred to a
343 temporary deputy on or after July 1, 2023.] The provisions of this
344 subsection shall not apply to a claim in which the parties have
345 [stipulated] not objected to an extension of time for the Office of the
346 Claims Commissioner to dispose of the claim.

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

364 (2) A temporary deputy shall make a finding of fact for each claim
365 and file such finding with the order or authorization disposing of the
366 claim with the Claims Commissioner. The temporary deputy shall

367 [deliver] provide a copy of such finding and order or authorization to
368 the claimant and to the representative for the state, which representative
369 may in appropriate cases be the Attorney General.

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

375 (f) In any claim alleging malpractice against the state, a state hospital
376 or against a physician, surgeon, dentist, podiatrist, chiropractor or other
377 licensed health care provider employed by the state, the attorney or pro
378 se party filing the claim may submit a certificate of good faith to the
379 Office of the Claims Commissioner in accordance with section 52-190a.
380 If such a certificate is submitted, permission to sue the state shall be
381 deemed granted by the Claims Commissioner (1) on June 28, 2021, if the
382 certificate has been filed with the Claims Commissioner prior to June 28,
383 2021, or (2) upon the filing of the certificate with the Office of the Claims
384 Commissioner, if such certificate is filed on or after June 28, 2021. In lieu
385 of filing a notice of claim pursuant to section 4-147, as amended by this
386 act, a claimant may commence a medical malpractice action against the
387 state prior to the expiration of the limitation period set forth in section
388 4-148 and authorization for such action against the state shall be deemed
389 granted. Any such action shall be limited to medical malpractice claims
390 only and any such action shall be deemed a suit otherwise authorized
391 by law in accordance with subsection (a) of section 4-142, as amended
392 by this act. The provisions of this subsection shall apply to any claim
393 alleging malpractice against the state that was timely filed with the
394 Claims Commissioner and remains pending with said commissioner,
395 regardless of whether such claim was filed before, on or after October 1,
396 2019.

397 (g) After completion of discovery in a suit filed in the Superior Court
398 after receiving permission to sue the state on the basis of an affidavit
399 attesting to the validity of a claim filed in accordance with subsection (a)

400 of this section, if the court determines that such affidavit was not made
401 in good faith, that no justiciable issue was presented against the state
402 and that the state cooperated in good faith with the claimant by
403 providing informal discovery, the court, upon motion or on its own
404 initiative, shall impose upon the attorney and claimant or pro se
405 claimant who signed such affidavit an appropriate sanction, which may
406 include an order to pay to the state the reasonable expenses incurred by
407 the state because of the filing of the suit. The court may also submit the
408 matter to the appropriate authority for disciplinary review of any
409 attorney who submitted the affidavit.

410 (h) In each action authorized by the Claims Commissioner or a
411 temporary deputy, or any action where permission to sue the state has
412 been deemed to have been granted by the Claims Commissioner,
413 pursuant to subsections (a) to (f), inclusive, of this section or by the
414 General Assembly pursuant to section 4-159, as amended by this act, or
415 4-159a, as amended by this act, the claimant shall allege such
416 authorization or permission and the date on which it was granted,
417 except that evidence of such authorization or permission shall not be
418 admissible in such action as evidence of the state's liability. Except as
419 provided in subsection (d) of this section, (1) the state waives its
420 immunity from liability and from suit in each such action and waives all
421 defenses which might arise from the eleemosynary or governmental
422 nature of the activity complained of, and (2) the rights and liability of
423 the state in each such action shall be coextensive with and shall equal
424 the rights and liability of private persons in like circumstances.

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

434 or in the judicial district in which the claim arose.

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

437 (k) Issues arising in such actions shall be tried to the court without a
438 jury.

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

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

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

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

461 (p) Not later than five days after the convening of each regular
462 session, the Attorney General shall report to the joint standing
463 committee of the General Assembly having cognizance of matters

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

481 Sec. 11. Section 4-147 of the general statutes is repealed and the
482 following is substituted in lieu thereof (*Effective July 1, 2023*):

483 Any person wishing to present a claim against the state shall file with
484 the Office of the Claims Commissioner a notice of claim, in duplicate,
485 containing the following information: (1) The name and address of the
486 claimant; the name and address of [his] the claimant's principal, if the
487 claimant is acting in a representative capacity, and the name and
488 address of [his] the claimant's attorney, if the claimant is so represented;
489 (2) a concise statement of the basis of the claim, including the date, time,
490 place and circumstances of the act or event complained of; (3) a
491 statement of the amount requested, which shall minimally indicate
492 whether such amount is less than thirty-five thousand dollars, or equal
493 to or in excess of thirty-five thousand dollars; and (4) a request for
494 permission to sue the state, if such permission is sought. A claim
495 exclusively setting forth a request for permission to sue the state may be
496 accompanied by supporting evidence, including, but not limited to,
497 transcripts, records, documents, reports, affidavits or memoranda. A

498 notice of claim, if sent by mail, shall be deemed to have been filed with
499 the Office of the Claims Commissioner on the date such notice of claim
500 is postmarked. [Claims in excess of five thousand dollars shall be
501 accompanied by a check or money order in the sum of fifty dollars
502 payable to the Treasurer, state of Connecticut. Claims for five thousand
503 dollars or less shall be accompanied by a check or money order in the
504 sum of twenty-five dollars payable to the Treasurer, state of
505 Connecticut. Except as provided in section 4-165b, fees may be waived
506 by the Claims Commissioner for good cause but such action by the
507 Claims Commissioner shall not relieve the claimant from the obligation
508 of filing the notice of claim in timely fashion within the statute of
509 limitations under section 4-148.] The Office of the Claims Commissioner
510 shall promptly [deliver] provide a copy of the notice of claim to the
511 Attorney General. Such notice shall be for informational purposes only
512 and shall not be subject to any formal or technical requirements, except
513 as may be necessary for clarity of presentation and facility of
514 understanding.

515 Sec. 12. Section 4-149 of the general statutes is repealed and the
516 following is substituted in lieu thereof (*Effective July 1, 2023*):

517 (a) The Attorney General shall review each claim [delivered] filed
518 under section 4-147, as amended by this act. If such review discloses to
519 the satisfaction of the Attorney General that protection of the state's
520 interest does not reasonably require representation by the Attorney
521 General before the Claims Commissioner, then such representation shall
522 be provided by the state agency or department involved in the claim. In
523 making such determination, the Attorney General shall consider (1) the
524 sum of money involved; (2) the legal significance of the claim as a
525 precedent; and (3) the complexity of the legal and factual issues
526 presented.

527 (b) The Attorney General shall notify the Claims Commissioner and
528 the agency or department involved within ninety days of receipt of a
529 claim by the Attorney General in those instances when the Attorney
530 General determines that protection of the state's interest does not

531 reasonably require representation by the Attorney General before the
532 Claims Commissioner.

533 (c) When the representative for the state, which representative may
534 in appropriate cases be the Attorney General, desires to oppose a claim,
535 such representative shall file with the Office of the Claims
536 Commissioner a notice of opposition, [in duplicate,] containing a
537 concise statement of such representative's objections. The Office of the
538 Claims Commissioner shall promptly [deliver a copy thereof] provide a
539 copy of the notice of opposition to the claimant.

540 Sec. 13. Section 4-156 of the general statutes is repealed and the
541 following is substituted in lieu thereof (*Effective July 1, 2023*):

542 Upon the discovery of new evidence, any claimant aggrieved by an
543 order of the Claims Commissioner rejecting or recommending the
544 rejection of [his or her] the claimant's claim, in whole or in part, may
545 apply for rehearing. The claimant shall file with the Office of the Claims
546 Commissioner an application for such rehearing, [in duplicate,] stating
547 concisely in the application the matters which he or she desires to
548 submit to the Office of the Claims Commissioner. The Office of the
549 Claims Commissioner shall promptly [deliver] provide a copy of the
550 application to the Attorney General. The Attorney General shall review
551 the application in the manner specified in subsection (a) of section 4-149,
552 as amended by this act. If such review discloses to the satisfaction of the
553 Attorney General that protection of the state's interest does not
554 reasonably require representation before the Office of the Claims
555 Commissioner by the Attorney General, the Attorney General shall refer
556 the application to the state agency or department involved in the claim
557 for representation of the state before the Office of the Claims
558 Commissioner not later than ninety days after receipt of the application
559 by the Attorney General. Each such rehearing shall be subject to the
560 provisions of this chapter and the rules made thereunder respecting the
561 hearing and disposition of claims and reports to the General Assembly.

562 Sec. 14. Section 4-165b of the general statutes is repealed and the

563 following is substituted in lieu thereof (*Effective July 1, 2023*):

564 (a) Any inmate, as defined in section 18-84, who suffers an injury may
565 file a claim against the state. Such claim shall be heard and decided in
566 accordance with the provisions of this chapter, provided no such claim
567 shall be presented to the Office of the Claims Commissioner until the
568 inmate has exhausted all administrative remedies provided by the
569 Department of Correction. Notwithstanding the provisions of this
570 subsection, the legal representative of the estate of an inmate may
571 present to the Office of the Claims Commissioner a claim against the
572 state prior to having exhausted any administrative remedy provided by
573 the Department of Correction.

574 (b) In addition to the information required by section 4-147, as
575 amended by this act, an inmate's notice of claim shall include a
576 description of the administrative remedies that have been exhausted.
577 An inmate shall present such claim to the Office of the Claims
578 Commissioner not later than one year after the date on which the inmate
579 exhausted all administrative remedies.

580 [(c) The Claims Commissioner may not grant a waiver of the filing
581 fee prescribed in section 4-147 to an inmate when, on three or more prior
582 occasions, the inmate filed with the Office of the Claims Commissioner
583 a claim that was dismissed on grounds that it was frivolous, duplicative,
584 malicious or otherwise failed to state a claim upon which relief could be
585 granted.]

586 Sec. 15. Section 4-159a of the general statutes is repealed and the
587 following is substituted in lieu thereof (*Effective July 1, 2023*):

588 (a) (1) Not later than five days after the convening of each regular
589 session, the Claims Commissioner shall report to the General Assembly
590 on all claims that have been filed with the Office of the Claims
591 Commissioner pursuant to section 4-147, as amended by this act, and
592 have not been disposed of by the Office of the Claims Commissioner
593 within two years of the date of filing or within any extension thereof
594 granted by the General Assembly pursuant to subsection (c) of this

595 section, except claims in which the parties have [stipulated] not objected
 596 within thirty days to an extension of time sought by the Office of the
 597 Claims Commissioner for [the Office of the Claims Commissioner] said
 598 office to dispose of the claim. (2) The report submitted by the Claims
 599 Commissioner pursuant to subdivision (1) of this subsection shall
 600 minimally include (A) an explanation as to why the claim has not been
 601 disposed of, and (B) the date by which a decision will be rendered on
 602 the claim in the event the General Assembly were to grant the Office of
 603 the Claims Commissioner an extension of time to dispose of the claim.

604 (b) The Office of the Claims Commissioner shall give notice to all
 605 claimants whose claims are the subject of a report as provided in
 606 subsection (a) of this section that their claims will be considered at the
 607 next regular session of the General Assembly pursuant to subsection (c)
 608 of this section.

609 (c) With respect to any claim that is the subject of a report as provided
 610 in subsection (a) of this section, the General Assembly may (1) grant the
 611 Office of the Claims Commissioner an extension for a period specified
 612 by the General Assembly to dispose of such claim, (2) grant the claimant
 613 permission to sue the state, (3) grant an award to the claimant, or (4)
 614 deny the claim.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2023	4-142
Sec. 2	July 1, 2023	4-142a
Sec. 3	July 1, 2023	4-142b
Sec. 4	July 1, 2023	4-151
Sec. 5	July 1, 2023	4-151a
Sec. 6	July 1, 2023	4-152
Sec. 7	July 1, 2023	4-154(a)
Sec. 8	July 1, 2023	4-158(a) and (b)
Sec. 9	July 1, 2023	4-159
Sec. 10	July 1, 2023	4-160
Sec. 11	July 1, 2023	4-147
Sec. 12	July 1, 2023	4-149

Sec. 13	<i>July 1, 2023</i>	4-156
Sec. 14	<i>July 1, 2023</i>	4-165b
Sec. 15	<i>July 1, 2023</i>	4-159a

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 24 \$	FY 25 \$
Department of Administrative Services	GF - Revenue Loss	15,000	15,000
Department of Administrative Services	GF - Cost	72,000	92,250
State Comptroller - Fringe Benefits ¹	GF - Cost	30,830	39,501

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill creates a Deputy Claims Commissioner position within the Department of Administrative Services which is estimated to result in a cost of \$102,830 in FY 24 and a fully annualized cost of \$131,751 in FY 25. The bill removes the fee for filing a claim against the state with the Office of the Claims Commissioner which is estimated to result in a revenue loss of approximately \$15,000 per year. The bill makes a number of additional changes which are technical in nature and have no fiscal impact.

House "A" strikes the underlying bill and its associated fiscal impact and replaces it with the fiscal impact described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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 42.82% of payroll in FY 24.

OLR Bill Analysis**sHB 6876 (as amended by House "A")******AN ACT CONCERNING THE ADMINISTRATION OF THE OFFICE OF THE CLAIMS COMMISSIONER.*****SUMMARY**

This bill makes the following changes in the laws governing the Office of the Claims Commissioner ("the office"):

1. adds, within available appropriations, a deputy claims commissioner position and sets its duties and term of office (§§ 1 & 2);
2. specifies that the Department of Administrative Services must provide the office's temporary deputies and administrative staff within available appropriations (§ 1);
3. adjusts the current claims commissioner's and temporary deputy commissioners' terms of office (§ 2);
4. removes the option for magistrates to hear claims against the state and instead assigns it to the six temporary deputy commissioners in current law (§§ 1 & 3);
5. requires that claims be considered as soon as practicable after they are filed, rather than being heard as under current law (§ 4);
6. extends various duties and powers assigned to the claims commissioner under existing law and magistrates under current law to the deputy commissioner and temporary deputies (§§ 4-10);

7. removes the \$50,000 threshold requirement for a claimant to request legislative review of a decision by the office ordering the denial, dismissal, or immediate payment of certain claims (§ 8); and
8. potentially increases the number of unresolved claims that may be referred to the office's temporary deputies for review and determination (§ 10).

The bill also makes various technical and conforming changes.

*House Amendment "A" makes the following changes: (1) revises the effective dates of all the sections in the underlying bill so that they occur sooner (July 1, rather than October 1, 2023); (2) limits appointments to certain office positions to within available appropriations; (3) requires that claims be considered, rather than heard, as soon as practicable after they are filed (§ 4); (4) removes the dollar amount threshold for legislative review of certain claims (§ 8); and (5) adds provisions on filing claims notices, filings in duplicate, inmate claims, and claims that are not disposed of in a timely manner (§§ 11-15).

EFFECTIVE DATE: July 1, 2023

§§ 1 & 2 — DEPUTY COMMISSIONER

The bill requires the claims commissioner, within available appropriations, to appoint a deputy commissioner who is an attorney with the training and experience suitable for the office's duties. This position is exempt from the state employee classified service.

Under the bill, the deputy commissioner hears and determines claims against the state, except for the claims specifically exempted in statute.

Additionally, the bill requires the deputy commissioner to perform all of the claims commissioner's functions when he or she is absent, disabled, or disqualified and gives the deputy commissioner all of the claims commissioner's powers and duties.

The bill specifies that the deputy commissioner's term is not coterminous with the claims commissioner's. It allows any newly appointed claims commissioner to replace a sitting deputy commissioner upon appointment. The deputy commissioner must serve until the claims commissioner appoints a successor.

§ 2 — CLAIMS COMMISSIONER

Under current law, the governor appoints and the General Assembly confirms a claims commissioner to serve a four-year term. The bill specifies that the governor nominates, rather than appoints, the commissioner. It also removes the option for the claims commissioner who is serving as of June 28, 2021, to continue to serve until his or her term expires.

§§ 1 & 3 — MAGISTRATES

Current law allows the claims commissioner to designate one or more magistrates from a list maintained by the chief court administrator to hear claims against the state and issue a decision about their final disposition. The bill eliminates this option and instead allows temporary deputies to partially fulfill this role (see § 3 below).

§§ 1-3 — TEMPORARY DEPUTIES

Current law requires the governor to appoint six temporary deputies to serve in the office. The bill allows for fewer temporary deputies by instead allowing the governor to appoint up to six of them. By law, each temporary deputy serves at the governor's pleasure for a coterminous term.

Current law terminates the appointment and service of any temporary deputy on and after October 1, 2023. The bill extends the termination date to March 1, 2026.

The bill also requires the claims commissioner to assign a temporary deputy to hear claims or make recommendations to the claims commissioner or deputy claims commissioner about their final disposition.

§§ 4-10 — DUTIES EXTENDED TO DEPUTY COMMISSIONER AND TEMPORARY DEPUTIES

The bill extends the following duties and powers assigned to the claims commissioner under existing law and to magistrates under current law to both the deputy commissioner and temporary deputies:

1. determining a suitable location for claims hearings (§ 4);
2. calling, examining, and cross-examining any witnesses; requiring information not offered by the claimant; and stipulating matters to be argued (§ 4);
3. being exempt from any law or rule of evidence, but not the claims commissioner's rules (§ 4);
4. administering oaths; requiring depositions; issuing subpoenas; and ordering inspection and disclosure of books, papers, records, and documents (§ 4);
5. quashing any order or subpoena upon good cause shown (§ 4);
6. issuing a *capias* (i.e., warrant) directed to a state marshal to arrest any person who fails to respond to a subpoena and bring him or her to testify (§ 4);
7. certifying to the attorney general that a person refuses to testify or produce any relevant, unprivileged book, paper, record, or document so that the attorney general may apply to the superior court for an order compelling compliance (§ 4);
8. dismissing a claim due to the claimant's failure to testify or produce relevant material (§ 4);
9. waiving the hearing of any claim for \$10,000 or less and proceeding upon the claimant's and concerned state agency's filed affidavits (§ 5);

10. excluding any person from further participation in a hearing due to misbehavior that obstructs the proceeding (§ 6);
11. summarily terminating a proceeding and terminating the claim when the claimant's misbehavior obstructs the proceeding (§ 6);
12. rendering a decision within 90 days after hearing a claim, making a finding of fact for each claim, and filing each finding with the order, recommendation, or authorization disposing the claim (§ 7);
13. ordering that a claim be denied or dismissed or, if it does not exceed \$35,000, be immediately paid (§ 8);
14. recommending to the General Assembly that a claim exceeding \$35,000 be paid (§ 8); and
15. authorizing a claimant to sue the state (§§ 8 & 10).

The bill makes conforming changes to extend provisions on legislative review of decisions by the claims commissioner to include those by the deputy commissioner and temporary deputies (§§ 8-9).

§ 10 — UNRESOLVED CLAIM REQUESTS

The bill potentially increases the number of unresolved claims that may be referred to the office's temporary deputies for review and determination.

Under current law, claims exclusively requesting to sue the state filed before June 28, 2018, must be referred to a temporary deputy for review and determination if the office has not disposed of them. The bill extends this requirement to claims filed before July 1, 2020. Existing law, unchanged by the bill, allows the claimant to have his or her claim remain before the claims commissioner, however, if the claimant expressly states this desire.

The law also allows claimants to file a notice with the attorney general, governor, and Judiciary Committee on claims exclusively

requesting permission to sue the state that remain pending with the office beginning 18 months after it was filed. The claims commissioner must then issue a decision on the claim within 90 days. If still unresolved after 90 days, the claim must be referred to a temporary deputy for review and determination. The bill removes the provision that sunsets these referrals beginning on July 1, 2023, allowing them to continue. Under current law, a claim in which the parties have stipulated for an extension of time for the office to dispose of the claim is not eligible for the above process. The bill instead applies this exclusion to claims in which the parties have not objected to an extension.

In both of the above scenarios, when unresolved claims are referred to a temporary deputy, he or she must review it and make a determination to deny or dismiss it within 90 days after the referral (CGS § 4-160(d)).

§§ 11 & 14 — FILING NOTICE OF CLAIMS AND FILING FEES

By law, anyone who wants to bring a claim against the state must file with the office a notice of claim, in duplicate. Among other information, current law requires the notice to state the amount requested in the claim. The bill specifies that this statement must at least indicate whether the amount is less than, equal to, or greater than \$35,000.

Additionally, the bill removes from current law the filing fee requirement that claims notices be accompanied by a check or money order payable to “Treasurer, state of Connecticut” in the following amounts: (1) \$50 for claims exceeding \$5,000 or (2) \$25 for claims for \$5,000 or less. It also makes conforming changes by removing obsolete provisions authorizing the claims commissioner to waive these fees.

§§ 12 & 13 — FILINGS IN DUPLICATE

State Notice of Opposition (§ 12)

By law, when either the attorney general or a state agency providing representation for the state before the claims commissioner wishes to oppose a claim against the state, that representative must file with the office a notice of opposition containing a concise statement of objections.

The bill removes current law's requirement that the state's representative file this notice in duplicate.

Rehearing Application (§ 13)

By law, an aggrieved claimant whose claim was rejected or recommended for rejection, in whole or in part, by the claims commissioner may apply for a rehearing if new evidence is discovered. The bill removes current law's requirement that the claimant file the application in duplicate with the office.

§ 15 — CLAIMS NOT TIMELY DISPOSED OF

Under existing law, the claims commissioner must report to the General Assembly, within five days after the regular legislative session begins, on all claims that have been filed with the office but have not yet been disposed of within (1) two years after the date they were filed or (2) any extension granted by the General Assembly. Current law does not require the commissioner to report on claims for which the parties agreed to an extension of time for the office to dispose of the claim. The bill modifies this reporting exemption, instead allowing it for claims for which the office sought an extension to dispose of the claim and the parties have not objected within 30 days. (Presumably, the 30-day window begins on the day when the office seeks the extension, but the bill does not specify how the parties will be notified of this day.)

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 0 (03/31/2023)

Appropriations Committee

Joint Favorable

Yea 53 Nay 0 (05/01/2023)