
OLR Bill Analysis

sHB 6876

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 a deputy claims commissioner position and sets its duties and term of office (§§ 1 & 2);
2. adjusts the current claim commissioner’s and temporary deputy commissioners’ terms of office (§ 2);
3. 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);
4. 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);
5. removes the General Assembly’s authority to (a) confirm a temporary deputy’s decision to deny or dismiss a claim, (b) vacate the decision by ordering payment of the claim or authorizing the claimant to sue the state, or (c) remand the claim to the office, only for a deputy’s review of an unresolved claim (§§ 9 & 10); and
6. 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 conforming changes.

EFFECTIVE DATE: October 1, 2023

§§ 1 & 2 — DEPUTY COMMISSIONER

The bill requires the claims commissioner 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 claim 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.

Term of Office

The bill specifies that the deputy commissioner's term is not coterminous with the claim 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

Term of Office

By law, the governor appoints and the General Assembly confirms a claims commissioner to serve a four-year term. The bill 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).

§ 3 — TEMPORARY DEPUTIES

Duties

The claims commissioner must assign a temporary deputy to hear claims or make recommendations to the claims commissioner or deputy claims commissioner about their final disposition. The bill specifies that a temporary deputy's decision does not have the same force and effect as a ruling by the claims commissioner or the deputy claims commissioner without written approval.

The bill requires the claims commissioner to establish rules, as needed, for temporary deputies' appointment to hear and decide matters. These rules may limit the types of matters that a temporary deputy may hear and decide.

Term of Office

By law, six temporary deputies serve in the office. Each temporary deputy is appointed by the governor and serves at his or her 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.

§§ 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; causing depositions to be taken; 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).

§ 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. By law and unchanged by the bill, 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.

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

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 0 (03/31/2023)