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Senate Bill 638 (as introduced 6-9-99)
Sponsor: Senator Ken Sikkema
Committee: Judiciary

Date Completed: 9-28-00

CONTENT

The bill would amend the Revised Judicature Act (RJA) to abolish the Court of Claims effective January 1, 2001. A claim against the State that was brought after that date would have to be commenced in the court having jurisdiction over that matter as provided by law and court rules. A case that was pending in the Court of Claims on January 1, 2000, would have to be transferred to the circuit court for the 30th judicial circuit (Ingham County) and assigned to a judge of that circuit.

The bill would retain several provisions of the RJA that govern claims filed in the Court of Claims, but would delete reference to the Court of Claims or refer instead to "the court having jurisdiction". The bill also would repeal various sections that govern the Court of Claims, including sections that create the Court as a function of the 30th circuit court; specify that the Court has exclusive jurisdiction over contract and tort claims against the State; allow Court of Claims cases to be joined with cases arising out of the same transaction in trial courts; and require the Attorney General to represent the State in all matters before the Court.

The provisions that the bill would retain do the following:

- Require a claimant, within one year after the claim has accrued, to file with the court either a written claim or a written notice of intention to file a claim against the State or any of its departments, commissions, boards, institutions, arms, or agencies.
- Require a claimant, in all actions for property damage or personal injury, to file with the court the claim itself or a notice of intention to file a claim within six months after the event that gave rise to the cause of action.
- Prohibit a claimant from filing a claim against the State if the claimant has an adequate remedy in the Federal courts.
- Provide that a claim against the State is forever barred unless the claim is filed with the court clerk, or unless suit is instituted in the Federal court, within three years after the claim first accrues.
- Provide that, when a judgment against the State becomes final or when a claim against the State is allowed by the State Administrative Board, and upon certification by the secretary of the Board to the clerk of the court, the clerk must certify that fact to the Auditor General.
- Require the court, if it finds that a person defrauded or attempted to defraud the State, in the proof, statement, establishment, or allowance of any claim against the State, to enter judgment that the claim is forfeited and the claimant is forever barred from prosecuting the claim.
- Provide that, in all actions brought in the court against the State to recover damages from the negligent operation by a State employee, agent, or officer of a State-owned motor vehicle or aircraft, it is not a defense that the State was engaged in a governmental function in the ownership or operation of the vehicle or aircraft.

The sections that the bill would repeal do the following:

- Name Chapter 64 of the RJA, "The Court of Claims Act" (Sec. 6401).
- Create the Court of Claims as a function of the 30th circuit court, and provide for judges to exercise the jurisdiction of the Court of Claims (Sec. 6404).
- Require the Court of Claims to hold at least four sessions each year, and provide for the Court's location (Sec. 6407).

- Require judges of the 30th circuit to appoint or remove the clerk of the Court of Claims, provide that the clerk is entitled to copying fees, and provide for service of process issued by the Court (Sec. 6410).
- Require the State to reimburse Ingham County for its costs in implementing the jurisdictional duties imposed on the county by Chapter 64 (Sec. 6413).
- Require the Attorney General, or his or her assistants, to appear for and represent the interests of the State in all matters before the Court (Sec. 6416).
- Give the State Administrative Board discretionary authority to hear and allow claims against the State in an amount under \$1,000; and give the Court jurisdiction to hear and determine all contract and tort claims and demands against the State and any of its departments, commissions, boards, institutions, arms, or agencies (Sec. 6419).
- Give the Court of Claims concurrent jurisdiction of any demand for equitable relief and for a declaratory judgment when ancillary to a claim under Section 6419 (Sec. 6419a).
- Allow the State Administrative Board to delegate its authority over any claim of \$500 or less for damages or loss of personal property by an employee of the State, to the head of the department for which he or she works (Sec. 6420).
- Provide that cases in the Court of Claims may be joined for trial with cases arising out of the same transaction in trial courts of the State (Sec. 6421).
- Require practice and procedure in the Court of Claims to be in accordance with statutes and court rules prescribing practice in the circuit courts (Sec. 6422).
- Provide that statutes and rules governing the taking of depositions in circuit courts generally govern in the Court of Claims (Sec. 6425).
- Give the Court of Claims the same subpoena and contempt powers as the circuit courts have (Sec. 6428).
- Require pleadings to conform to rules for pleadings in circuit courts (Sec. 6434).
- Allow the Court to enter judgment against the State based on facts stipulated by counsel (Sec. 6437).
- Require cases to be heard by a judge without a jury, and allow the Court to grant a new trial under the same conditions as allowed in circuit courts (Sec. 6443).
- Provide for appeals from the Court of Claims to the Court of Appeals (Sec. 6446).
- Authorize the Court to allow costs to the prevailing party (Sec. 6449).
- Require the clerk of the Court to report to the Legislature the claims upon which the Court has acted, with a statement of judgments rendered (Sec. 6461).
- Provide that payment of the amount due, as found by a judgment of the Court, operates as a discharge of the judgment (Sec. 6464).

MCL 600.308 et al.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill would eliminate the Court of Claims and State reimbursement for costs associated with cases filed against the State. State payments to Ingham County for the operation of the Court of Claims over the last three fiscal years were as follows:

| <u>FY 1996-97</u> | <u>FY 1997-98</u> | <u>FY 1998-99</u> |
|-------------------|-------------------|-------------------|
| \$126,909.97 | \$94,315.27 | \$100,385.15 |

New cases filed in the Court of Claims totaled 351 in 1997, 290 in 1998, and 344 in 1999. According to the State Court Administrative Office, approximately 25% of the cases in the Court of Claims are joined for trial with cases arising out of the same transaction or series of transactions that are pending in other trial courts (outside Ingham County) of the State. The impact that the bill would have regarding costs to the Department of Attorney General for additional travel costs (attorney time), based on the number of cases that no longer would be assigned to the Ingham County Circuit Court, is not determinable. Additional costs also would result from possible jury trials in cases filed against the State.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

Fiscal Analyst: B. Bowerman