

Legislative History for Connecticut Act

HB 4003	PA 685	fax scan	1959
Senate	p. 4074-4077		4p
House:	p. 5366-5367; 5582-5584		5p
Appropriations	p. 919-925		7p.
			16 p.m.

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
1959

VOL 8

PART 8

3625-4196

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3317. An Act amending the Charter of the Thomaston Water Company.

House Amendment Schedule "A" adopted June 2, 1959.

Favorable report of the Committee on Incorporations.

SENATOR RAITERI:

Mr. President....

THE CHAIR:

Senator from the 27th.

SENATOR RAITERI:

I move acceptance of the committee's favorable report and passage of the bill as amended by House Amendment Schedule "A".

THE CHAIR:

The question is on the acceptance of the committee's favorable report and passage of the bill as amended by House Amendment Schedule "A". Will you remark?

SENATOR RAITERI:

Mr. President, I have already remarked on this bill in discussing the previous bill. I don't feel that there is any necessity to remark any further.

THE CHAIR:

Will you remark further? If not, all those in favor will signify by saying "aye", those opposed "no". The "ayes" have it. The bill is ordered passed as amended.

THE CLERK:

Calendar No. 1876. File No. 1373. House Bill No. 4003. An Act concerning the Hearing and Determination of Claims against the State.

House amendment Schedule "A" adopted June 1, 1959.

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Favorable report of the Committee on Appropriations.

SENATOR FERLAND:

Mr. President....

THE CHAIR:

Senator from the 28th.

SENATOR FERLAND:

I move the acceptance of the committee's favorable report and passage of the bill as amended by Schedule "A".

THE CHAIR:

The question is on the acceptance of the committee's favorable report and passage of the bill as amended by House Amendment Schedule "A". Will you remark?

SENATOR FERLAND:

This act establishes a commission on claims. This would save the legislature and its committees from hearing and acting upon the many claims made against the state of Connecticut, which bi-annually takes a great deal of time of the members of the legislature. By setting up a commission on claims, which shall hear and determine all claims against the state with certain exceptions as provided in section 2 of this act. The commission shall be composed of three electors who shall be appointed by the Governor, with the advice and consent of the general assembly. Each member will be paid forty dollars together with necessary expenses. The commission may approve immediate claims, and just claims, not exceeding twenty-five hundred dollars. All other claims and the findings of the commission must be submitted to the general assembly

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for acceptance, authorization or rejection, except that the commission may authorize suits against the state on claims over twenty-five hundred dollars when it deems it just and equitable. The attorney general with the consent of the court may compromise and settle this type of suit. All issues will be tried before the court without a jury. Thirty thousand dollars provided by the baby budget to carry out the purpose of this act. It is a good bill and I urge its adoption.

THE CHAIR:

Will you remark further?

SENATOR MARIANI:

Mr. President....

THE CHAIR:

Senator from the 18th.

SENATOR MARIANI:

May I through you, please ask the Senator from the twenty-first, Senator Caldwell, before we establish this commission, if he has any other claims bills in his pocket that might be processed today?

THE CHAIR:

Senator from the 23rd care to answer?

SENATOR CALDWELL:

My only answer is that I don't usually keep them in my pocket.

THE CHAIR:

Will you remark further? If not, the question is on the adoption of the committee's favorable report and passage of the bill as

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amended. Will you remark further? If not, all those in favor will signify by saying "aye", those opposed "no". The "ayes" have it. The bill is ordered passed as amended.

THE CLERK:

Favorable report. Favorable report of the Joint Standing Committee on Labor. House Bill No. 4031. An Act concerning the Amending of the Unemployment Compensation Act.

SENATOR MILLER:

Mr. President....

THE CHAIR:

Senator from the 13th.

SENATOR MILLER:

I move for suspension of the rules for immediate consideration.

THE CHAIR:

The question is on suspension of the rules for immediate consideration. Is there any objections? There appears to be none. The rules are suspended.

SENATOR MILLER:

Mr. President, I move for acceptance of the committee's favorable report and passage of the bill, in concurrence with the House.

THE CHAIR:

The question is on the acceptance of the committee's favorable report and passage of the bill. Will you remark?

SENATOR MILLER:

Mr. President, this bill just actually raises the maximum amount of the unemployment benefit rate from forty to forty-five

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MONDAY - JUNE 1, 1959

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THE SPEAKER:

Question is on acceptance and passage of the bill as amended by House Amends. Sched. "A" and "B" in concurrence with the Senate? The 'ayes' have it. Bill is passed.

THE CLERK:

Cal. 1701 File 1373

H.B. 4003. Concerning the hearing and determination of claims against the state.

Committee on Appropriations.

I have an amendment on that.

House Amend. Sched. "A".

On page 2, sec. 3, line 3, delete "june first" and insert in its place the following: "the adjournment of the regular session of the General Assembly."

MR. GOOGEL: (New Britain)

The reason for this amendment is as follows: Under the terms of this act the Governor with the advice and consent of the General Assembly would have to appoint a Claims Commission on or before June 1st; obviously, we wouldn't be able to take that action so this amendment merely provides that the Claims Commission will be appointed on or before the adjournment of the regular session. I move its adoption.

THE SPEAKER:

Remark further. Gentleman from Norwalk.



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MR. PADULA: (Norwalk)

I certainly concur with the amendment and may it be passed, please, and then we'll take it up again. The gentleman from Brookfield wants to comment on it when it comes back.

THE SPEAKER:

Will you remark further on the amendment? If not, the motion is on adoption. All in favor say 'aye'; opposed?

The amendment is adopted.

The printing of the amend. will be waived.

THE CLERK:

Cal. 1752 File 1408

H.R. 3134. Concerning Northeastern water and related land resources compact.

Committee on Water Resources and Flood Control.

MRS. MILLS: (Stamford)

I move for favorable acceptance and passage of the bill.

This bill was strongly recommended by the Water Resources Flood and Control Commission. Since 1956 there have been 3 conferences of New England Governors concerned with the subject of this bill, and March 2, 1959 at the conference held here in Hartford the compact as contained in this bill was unanimously approved, and each Governor was urged to work towards the passage of this legislation in his state. This would compact/set up an agency for coordinating all federal and state activities dealing with the natural resources of the New England area. Because New England contributes heavily to

MR. PADULA  
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THE CLERK:

Page 9. Calendar No. 1690. File No. 1493.

House Bill No. 3960. An Act prohibiting the Sale of Defective Recapped Tires. Committee on Transportation.

THE SPEAKER:

The gentleman from East Hartford.

MR. BURKE OF EAST HARTFORD:

May this be temporarily passed. The man who wants to discuss this Bill isn't here yet.

THE SPEAKER:

Passed temporarily and retained.

THE CLERK:

Calendar No. 1701. File No. 1373. House Bill No. 4003. An Act concerning the Hearing and Determination of claims against the State, as Amended by House Amendment Schedule "A" previously adopted. Committee on Appropriations.

THE SPEAKER:

The gentleman from Thompson.

MR. LaFLEUR OF THOMPSON:

I move for the Acceptance of the Committee's Favorable Report and Passage of the Bill.

THE SPEAKER:

The question is on the Acceptance of the Committee's Favorable Report and Passage of the Bill. Will you remark.

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MR. LAFLEUR OF THOMPSON:

This Act would save the Legislature and its Committees from hearing and acting upon many claims made against the State of Connecticut, which biennially observe a great deal of time of the Members of the Legislature, by setting up a Commission on Claims which shall hear and determine all claims against the State with certain exceptions as provided in Section 2 of this Act. The Commission shall be composed of 3 electors who shall be appointed by the Governor with the advice and consent of the General Assembly. Each Member will be paid \$40 (inaudible) together with necessary expenses. The Commission may approve immediate payment of just claims not exceeding \$2500. All other claims and findings of the Commission must be submitted to the General Assembly for acceptance, alteration or rejection. Thirty thousand provided in the Baby Budget to carry out the provisions of this Act. This is a good Bill and I hope it passes.

THE SPEAKER:

Any remarks further. The lady from Darien.

MRS. FARMER OF DARIEN:

Mr. Speaker, I see this Bill was amended and I wonder if the gentleman might tell us the substance of that Amendment. I am sorry I don't recall it.

THE SPEAKER:

Would the gentleman from Thompson care to answer the lady from Darien.

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MR. LaFLEUR OF THOMPSON:

I don't have the substance of the Amendment. If the Clerk has it will he please read it.

THE SPEAKER:

Any remarks further. The gentleman from Barkhamsted.

MR. ROBERTS OF BARKHAMSTED:

Mr. Speaker, its a very short Amendment. The Clerk has it now. I was merely going to explain it, but if the Clerk will read it that will be even better.

THE CLERK:

The Amendment is contained in today's Journal on page 1866, and it reads as follows: 'On page 2, Section 3, line 3, delete June 1 and insert in its place the following; the adjournment of the regular session of the general Assembly'.

THE SPEAKER:

Will you remark further. If not, the question is on the Acceptance of the Committee's Favorable Report and Passage of the Bill as Amended by House Amendment Schedule "A". All those in favor say 'aye'. Opposed 'no'. The 'ayes' have it.  
The Bill is passed.

THE CLERK:

Page 10. Calendar No. 1766. File No. 1033.  
Substitute for Senate Bill No. 420. An Act authorizing the City of Waterbury to Issue Public Works Bonds. Committee on Finance.

THE SPEAKER:

The gentleman from Waterbury.

JOINT  
STANDING  
COMMITTEE  
HEARINGS

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PART 3

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Chairman Cohen: Anyone else wish to be heard? Anyone in opposition. If not, we will declare the hearing closed.

(See Pages 3 - 17 - 21)

HOUSE BILL NO. 4003 (REPRESENTATIVES O'BRIEN AND PADULA)  
AN ACT CONCERNING THE HEARING AND DETERMINATION  
OF CLAIMS AGAINST THE STATE

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Chairman Cohen: We will now open the hearing on HOUSE BILL NO. 4003 (REPRESENTATIVES O'BRIEN AND PADULA) AN ACT CONCERNING THE HEARING AND DETERMINATION OF CLAIMS AGAINST THE STATE. Anyone in favor?

Mr. George Oberst, Director of the Legislative Council: HOUSE BILL NO. 4003 (REPRESENTATIVES O'BRIEN AND PADULA) AN ACT CONCERNING THE HEARING AND DETERMINATION OF CLAIMS AGAINST THE STATE, is a bill sponsored by the Legislative Council and is the claims bill. By way of background, I think I would like to give the Committee an idea of some of the work that has been involved here.

For more than a decade the problem of hearing and deciding claims against the State has been one of increasing concern to the General Assembly. Every session has seen a gradual increase in the number of bills requesting reimbursement for damage and injury, for refund of taxes, fees and forfeited bonds and for a variety of other payments. Every session has seen a corresponding increase in the number of bills seeking permission for individuals to sue the State.

Because of the doctrine of sovereign immunity, the State, unlike most of its citizens, is immune from liability and from suit; that is, without its consent the State cannot be held liable in a legal action for any damage or injury it may cause. By general law, the Governor and the Comptroller have authority to settle claims of a very minor nature. But

Mr. Oberst (Continued)

traditionally it is the duty of the General Assembly to hear and decide the great variety of demands made upon the State for the payment of money. When claims are few in number and the financial outlay is small, legislative determination can function efficiently. But as the number of claims increases and demands upon the treasury grow in size, the legislative process becomes progressively incapable of handling them efficiently. Other more important demands upon the time of legislators and the natural limitations of legislative investigation do not always insure a just determination. This natural inadequacy is further complicated by the fact that some unsatisfied claimants reappear every session with the same claims, forcing the legislature into useless repetition. Despite an earnest desire to honor legitimate claims, there is little to assure the equity and justice which the State rightly demands and which claimants rightly deserve.

In order to find a solution to the problem both feasible and economical, the General Assembly at its 1953 session directed the Legislative Council to study the matter of adjudicating claims against the State. In its report to the 1955 session, the Council recommended the creation of an administrative-type Claims Commission to hear and dispose of certain classes of claims. Action was deferred, however, at the suggestion of the Attorney-General that the General Assembly lacked constitutional authorization to delegate to another agency the function of deciding claims. A constitutional amendment was prepared at the 1955 session which was submitted to and approved by the electorate on November 4, 1958.

During a lengthy study the Council analyzed the needs of Connecticut and surveyed the complex of methods used in other states and by the Federal Government to consider claims. The Council found that although few systems are alike the more progressive combine both judicial and non-judicial consideration. The Council concluded that in Connecticut

Mr. Oberst (Continued)

administrative adjudication combined with judicial consideration would function most effectively and most economically, with the least difficulty and with the greatest justice and satisfaction.

Therefore, the Council recommends the creation of an administrative-type of Claims Commission composed of three members with authority to hear and determine all claims against the State except a few restricted categories which are susceptible only of legislative determination. The Council suggests that the Commission be authorized to dispose finally of claims for \$2,500 or less and that in respect of claims for more than \$2,500, it either hear such claims and make recommendations to the General Assembly for their payment or rejection or that it be permitted to authorize suit upon such claims in the courts which present an issue of law or fact susceptible of judicial determination.

Such authority would achieve these results: As Table II in Appendix A indicates, the greater number of claims are for \$2,500 or less. At the same time, claims for more than \$2,500 account for the larger proportion of money expended. This would enable the General Assembly to ease the burden of numbers while retaining almost full control over financial outlay. Further, limiting judicial determination to claims for more than \$2,500 and giving the Claims Commission control over claims which go into a court eliminates the possibility of strike suits and nuisance suits against the State; it avoids needless expenditures and unnecessary burdens on the facilities of the Attorney-General's office, while insuring that claims for larger amounts which should be tried in court will be so tried. It also relieves the General Assembly of the burden of hearing a substantial number of bills requesting permission to sue the State.

A commission of three members with one full-time clerk would enable the State to obtain the service of well-qualified people at a minimum of expense. A one year limitation on



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Mr. Oberst (Continued)

the time in which a claim may be presented assures that the hearing will be reasonably contemporaneous with the cause of a claim. The finality of a decision on a claim would effectively eliminate repetitious claims.

As a result, the burdens on the General Assembly can be eased, both the state and individual claimants can be assured of fair consideration of all claims with confidence that legitimate claims will be honored and all accomplished at a minimal expense to the State.

Concurrently with this study and also at the direction of the General Assembly, the Legislative Council considered the question of claims against state officers and employees arising from their employment. After studying several alternatives, the Council recommends that the present tort liability attaching to state employment be extinguished and that any person having a claim against a state employee be directed to present it to the Commission as a claim against the state. Were the state liable in law for its torts, it would be liable in the same fashion and to the extent as its employees for damage or injury caused by such employees in the course and within the scope of their employment. Since the state is not liable, it is the practice of some persons to sue the employee, hoping to obtain a judgment or a settlement. With the state providing its citizens with a just and equitable means of presenting claims, continuing the liability of state employees appears unnecessary and, in practice, constitutes a burden on state employment. Such a provision has been included in the proposal recommended by the Council. It should be noted, however, that it affects only such liability as might arise in the course of and within the scope of state employment. Should these conditions not be met; that is, should a state employee act wantonly or wilfully, the protection does not attach and such employee continues to be fully liable for his conduct. Normally, under those circumstances the state would not be liable for the acts of the employee.

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Mr. Oberst (Continued)

For the foregoing reasons, the Council recommends the adoption of HOUSE BILL NO. 4003 (REPRESENTATIVES O'BRIEN AND PADULA) AN ACT CONCERNING THE HEARING AND DETERMINATION OF CLAIMS AGAINST THE STATE.

I have here a breakdown on the table. Perhaps, Mr. Chairman, you would like to have me submit that, of what we think might be a guide to your Committee. You are <sup>on</sup> uncharted seas here and we are trying to analyze, from past experience, the number of cases and what categories they fell in, and possibly how often the Committee would meet and things of that sort.

Chairman Cohen: You may leave that with the Clerk. Representative Mackie has a question she would like to ask.

Representative Helen Mackie, Westport: Has any estimate been made on the cost of this for the biennium? One clerk and where would the office be set up? In your office?

Mr. Oberst: That would be set up in the Capitol. Actually, a breakdown on just the administrative features. One clerk and three members. The bill provides that the members will receive a per diem of \$40 a day, figuring that they would meet once a week. That would amount to \$120 or \$6,240 during a year. Figuring mileage on that, and again it is just estimating, making an average of 100 miles with 52 meetings at an average of \$30 a meeting, that would come in a year to \$1,560. A clerk-stenographer, we allocated about \$4,200. You would have some office expense of about \$1,500. That totals \$13,500 so that your range may be from that figure to \$15,000. As to the amount of claims we have detailed table which we will mimeograph and submit to the Committee, which would help. I would point out that on the claims in excess of \$2,500, they usually involve contract claims. If you will recall, claims over \$2,500, the Commission may either reject or recommend payment to the General Assembly or may authorize suit. It is not the final action taken.

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Mr. Oberst (Continued)

Further, I would caution the Committee on the use of these figures, that in the 1957 totals we have the Fitch Estate \$50,000 claim which I think throws that figure somewhat out of balance.

Chairman Cohen: Any other question by any other member of the Committee?

Representative Mackie: I was just going to ask the total claims for the 1957 session including the Fitch Estate?

Mr. Oberst: In 1957 the number of claims filed was 112. Claims approved 47. The amount totaled \$160,425.38. During that year, there were 35 cases under \$2,500, totaling \$18,398.67 and over \$2,500 there were 11 claims and they totaled \$142,026.71.

Representative Patterson: I just wanted to ask one question which hasn't anything to do with the money side. I noticed, Mr. Oberst, in Section 7 that the Commission cannot conduct a hearing unless all three of its members are present. Was that discussed by the people who drafted this bill? It seems to me possibly an unwise provision. I would think that the prolonged illness of one member or difficulty you always have in getting three people together might slow the work of the Commission down.

Mr. Oberst: That was discussed, Mr. Patterson, and the thought of the Committee was that to limit by not having too large a Commission and by having three, you would have all of them participating in the thing, and I think the thought was that in the event of any illness or something of that nature, that because it is a small flexible agency that they could postpone. But it was considered and desired to have all members participate in the determinations.

Representative Patterson: I was just thinking of the delay that might be involved to the claimant. I guess he would have to stand for it, wouldn't he?

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Mr. Oberst: I would imagine so under that but I think that if there were any extended delays, provision would be made.

Chairman Cohen: I would like to ask a question. Would a Senator or Representative be allowed to be a member of this Commission?

Mr. Oberst: No, sir. Not under our thinking on it; this falls into an administrative and judicial agency.

Chairman Cohen: There has been some talk about the Forfeited Rights Commission and I wondered ...

Mr. Oberst: I make no opinion on the Forfeited Rights. I just mention on this that there was some thought of having on the membership of the Commission some legislators because they had experience in the processing of claims but the more we got into it, we found that there would be a definite conflict with the constitutional amendment and therefore it was eliminated.

Chairman Cohen: Any other questions by members of the Committee? Thank you. Anyone else wish to be heard? Anyone in opposition? If not, I declare the hearing closed for the day.