

SENATE BILL No. 652

October 24, 2013, Introduced by Senators JONES, BRANDENBURG and MARLEAU and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 308, 841, 6404, 6407, 6410, 6413, 6419, 6421, and 8304 (MCL 600.308, 600.841, 600.6404, 600.6407, 600.6410, 600.6413, 600.6419, 600.6421, and 600.8304), section 308 as amended by 2012 PA 333, sections 841 and 8304 as amended by 2012 PA 338, section 6410 as amended by 1986 PA 308, and sections 6419 and 6421 as amended by 1984 PA 212; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 308. (1) The court of appeals has jurisdiction on appeals
2 from the following orders and judgments, which ~~shall be~~ **ARE**
3 appealable as a matter of right:

4 (a) All final judgments from the circuit court, court of
5 claims, and recorder's court, except judgments on ordinance
6 violations in the traffic and ordinance division of recorder's

1 court and final judgments and orders described in subsections (2)
2 and (3).

3 (b) Those orders of the probate court from which an appeal as
4 of right may be taken under section 861.

5 (2) The court of appeals has jurisdiction on appeal from the
6 following orders and judgments ~~which~~**THAT** shall be reviewable only
7 upon application for leave to appeal granted by the court of
8 appeals:

9 (a) A final judgment or order made by the circuit court under
10 any of the following circumstances:

11 (i) In an appeal from an order, sentence, or judgment of the
12 probate court under section 863(1) and (2).

13 (ii) In an appeal from a final judgment or order of the
14 district court appealed to the circuit court under section 8342.

15 (iii) An appeal from a final judgment or order of a municipal
16 court.

17 (iv) In an appeal from an ordinance violation conviction in the
18 traffic and ordinance division of recorder's court of the city of
19 Detroit, if the conviction occurred before September 1, 1981.

20 (b) An order, sentence, or judgment of the probate court, if
21 the probate court certifies the issue or issues under section
22 863(3).

23 (c) A final judgment or order made by the recorder's court of
24 the city of Detroit in an appeal from the district court in the
25 thirty-sixth district under section 8342(2).

26 (d) A final order or judgment from the circuit court or
27 recorder's court for the city of Detroit based upon a defendant's

1 plea of guilty or nolo contendere.

2 (e) Any other judgment or interlocutory order as determined by
3 court rule.

4 (3) An order concerning the assignment of a case to the
5 business court under chapter 80 shall not be appealed to the court
6 of appeals.

7 **(4) THE COURT OF APPEALS HAS EXCLUSIVE ORIGINAL JURISDICTION**
8 **OVER ANY ACTION CHALLENGING THE VALIDITY OF SECTION 6404, 6410,**
9 **6413, OR 6419.**

10 Sec. 841. (1) The probate court has jurisdiction and power as
11 follows:

12 (a) As conferred upon it under the estates and protected
13 individuals code, 1998 PA 386, MCL 700.1101 to 700.8206.

14 (b) As conferred upon it under the mental health code, 1974 PA
15 258, MCL 330.1001 to 330.2106.

16 (c) As conferred upon it under this act.

17 (d) As conferred upon it under another law or compact.

18 (2) In a judicial circuit in which the probate court is
19 affected by a plan of concurrent jurisdiction adopted under chapter
20 4, the probate court has concurrent jurisdiction with the circuit
21 court or the district court, or both, as provided in the plan of
22 concurrent jurisdiction, except as to the following matters:

23 (a) The circuit court has exclusive jurisdiction over appeals
24 from the district court and from administrative agencies as
25 authorized by law.

26 (b) The circuit court has exclusive jurisdiction and power to
27 issue, hear, and determine prerogative and remedial writs

1 consistent with section 13 of article VI of the state constitution
2 of 1963.

3 ~~—— (c) The circuit court has exclusive jurisdiction to hear and~~
4 ~~decide matters within the jurisdiction of the court of claims under~~
5 ~~chapter 64.~~

6 Sec. 6404. (1) The court of claims is created as a function of
7 the circuit court for the thirtieth judicial circuit. **CONSISTS OF 4**
8 **COURT OF APPEALS JUDGES FROM AT LEAST 2 COURT OF APPEALS DISTRICTS**
9 **ASSIGNED BY THE SUPREME COURT.** A circuit ~~COURT OF APPEALS~~ judge of
10 the thirtieth judicial circuit and any judge assigned into the
11 thirtieth judicial circuit by the state court administrator **WHILE**
12 **SITTING AS A JUDGE OF THE COURT OF CLAIMS** may exercise the
13 jurisdiction of the court of claims as provided by law.

14 ~~—— (2) In case of the disability or absence from the place of~~
15 ~~holding court of a circuit judge before whom while sitting as the~~
16 ~~judge of the court of claims a case has been tried or motion heard,~~
17 ~~another circuit judge designated to sit as the judge of the court~~
18 ~~of claims to may continue, hear, determine, and sign all matters~~
19 ~~that his or her predecessor could have continued, heard,~~
20 ~~determined, and signed.~~

21 (2) **ALL MATTERS PENDING IN THE COURT OF CLAIMS AS OF THE**
22 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION**
23 **SHALL BE TRANSFERRED TO THE CLERK OF THE COURT OF APPEALS, ACTING**
24 **AS THE CLERK OF THE COURT OF CLAIMS, FOR ASSIGNMENT TO A COURT OF**
25 **APPEALS JUDGE SITTING AS A COURT OF CLAIMS JUDGE PURSUANT TO**
26 **SECTION 6410. THE TRANSFER SHALL BE EFFECTIVE ON THE EFFECTIVE DATE**
27 **OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.**

1 (3) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
2 ADDED THIS SUBSECTION, ANY MATTER WITHIN THE JURISDICTION OF THE
3 COURT OF CLAIMS DESCRIBED IN SECTION 6419(1) PENDING OR LATER FILED
4 IN ANY COURT MUST, UPON NOTICE OF THE STATE OR A DEPARTMENT OR
5 OFFICER OF THE STATE, BE TRANSFERRED TO THE COURT OF CLAIMS
6 DESCRIBED IN SUBSECTION (1). THE TRANSFER SHALL BE EFFECTIVE UPON
7 THE FILING OF THE TRANSFER NOTICE. THE STATE OR A DEPARTMENT OR
8 OFFICER OF THIS STATE SHALL FILE A COPY OF THE TRANSFER NOTICE WITH
9 THE CLERK OF THE COURT OF APPEALS, WHO SHALL ACT AS THE CLERK OF
10 THE COURT OF CLAIMS, FOR ASSIGNMENT TO A COURT OF APPEALS JUDGE
11 SITTING AS A COURT OF CLAIMS JUDGE PURSUANT TO SECTION 6410.

12 (4) IF A JUDGE ASSIGNED TO SERVE ON THE COURT OF CLAIMS IS
13 DISABLED, DISQUALIFIED, OR OTHERWISE UNABLE TO ATTEND TO A MATTER,
14 ANOTHER JUDGE ASSIGNED TO SIT AS A JUDGE OF THE COURT OF CLAIMS MAY
15 CONTINUE, HEAR, DETERMINE, AND SIGN ORDERS AND OTHER DOCUMENTS IN
16 THE MATTER.

17 (5) ~~(3)~~—In case a ~~circuit~~COURT OF APPEALS judge designated to
18 sit as the judge of the court of claims dies before signing a
19 judgment and after filing a finding of fact or rendering an opinion
20 upon proof submitted and argument of counsel disposing of all or
21 part of the issues in the case involved, a successor as judge of
22 the court of claims may proceed with that action in a manner
23 consistent with the finding or opinion and the judge is given the
24 same powers as if the finding of fact had been made or the opinion
25 had been rendered by the successor judge.

26 (6) A JUDGE ASSIGNED AS A JUDGE OF THE COURT OF CLAIMS SHALL
27 BE ASSIGNED FOR A TERM OF 2 YEARS AND MAY BE REASSIGNED AT THE

1 EXPIRATION OF THAT TERM.

2 (7) THE TERM OF A JUDGE OF THE COURT OF CLAIMS EXPIRES ON MAY
3 1 OF EACH ODD-NUMBERED YEAR.

4 (8) WHEN A JUDGE WHO IS SITTING AS A JUDGE OF THE COURT OF
5 CLAIMS LEAVES OFFICE OR IS OTHERWISE UNABLE TO SERVE AS A JUDGE OF
6 THE COURT OF CLAIMS, THE SUPREME COURT MAY ASSIGN A COURT OF
7 APPEALS JUDGE TO SERVE FOR THE REMAINDER OF THE JUDGE'S TERM ON THE
8 COURT OF CLAIMS.

9 (9) THE SUPREME COURT SHALL SELECT A CHIEF JUDGE OF THE COURT
10 OF CLAIMS FROM AMONG THE COURT OF APPEALS JUDGES ASSIGNED TO THE
11 COURT OF CLAIMS.

12 Sec. 6407. The court shall hold at least 4 sessions in each
13 year. Sessions of the court of claims may be held in the various
14 ~~circuits~~ **COURT OF APPEALS DISTRICTS** in the state as the supreme
15 court administrator may determine. ~~If the hearing in a particular~~
16 ~~case is to be held at a place other than the city of Lansing, due~~
17 ~~notice shall be given to all interested persons. The sheriff of the~~
18 ~~county within which a case is heard, or 1 of his deputies, shall~~
19 ~~serve as court officer without additional compensation therefor.~~
20 The department of **TECHNOLOGY**, management, and budget shall furnish
21 the court with suitable space and equipment. ~~in the city of~~
22 ~~Lansing.~~

23 Sec. 6410. (1) ~~The circuit judges of the thirtieth judicial~~
24 ~~circuit shall appoint or remove the clerk~~ **OF THE COURT OF APPEALS**
25 **SHALL SERVE AS THE CLERK** of the court of claims.

26 (2) **A PLAINTIFF MAY FILE A CAUSE OF ACTION IN THE COURT OF**
27 **CLAIMS IN ANY COURT OF APPEALS DISTRICT.**

1 (3) THE CLERK OF THE COURT OF CLAIMS SHALL, BY BLIND DRAW,
2 ASSIGN A CAUSE OF ACTION FILED IN THE COURT OF CLAIMS TO A COURT OF
3 APPEALS JUDGE SITTING AS A COURT OF CLAIMS JUDGE.

4 (4) ~~(2)~~—For making copies of records, proceedings, and
5 testimony and furnishing the same at the request of the claimant,
6 or any other person, the clerk of the court of claims ~~—~~or any
7 reporter or recorder serving in the court of claims shall be
8 entitled, in addition to salary, to the same fees as are by law
9 provided for court reporters or recorders in the circuit court. No
10 charge shall be made against the state for services rendered for
11 furnishing copies of records, proceedings, or testimony or other
12 papers to the attorney general.

13 (5) ~~(3)~~—Process issued by the court may be served by any
14 member of the Michigan state police as well as any other officer or
15 person authorized to serve process issued out of the circuit court.

16 Sec. 6413. ~~(1) The state shall reimburse the county of Ingham~~
17 ~~for the reasonable and actual costs incurred by that county for~~
18 ~~implementing jurisdictional duties in the circuit court imposed on~~
19 ~~that county by this chapter.~~**THE COURT OF CLAIMS SHALL SIT IN THE**
20 **COURT OF APPEALS DISTRICT WHERE A COURT OF APPEALS JUDGE SERVING AS**
21 **A JUDGE OF THE COURT OF CLAIMS SITS, UNLESS OTHERWISE DETERMINED BY**
22 **THE CHIEF JUDGE OF THE COURT OF CLAIMS.**

23 ~~(2) The county of Ingham shall submit quarterly its itemized~~
24 ~~costs as described in this section to the state court~~
25 ~~administrative office. After determination by the state court~~
26 ~~administrator of the reasonableness of the amount to be paid,~~
27 ~~payment shall be made pursuant to the accounting laws of this~~

1 state. Determination of reasonableness by the state court
 2 administrator shall be conclusive.

3 ~~—— (3) Full time employees of the court of claims are transferred~~
 4 ~~to the circuit court for the thirtieth judicial circuit. Seniority~~
 5 ~~rights, annual leave, sick leave, longevity pay and retirement~~
 6 ~~benefits to which employees of the court of claims are now entitled~~
 7 ~~shall be preserved and the employees shall be continued in their~~
 8 ~~positions in the court of claims in the thirtieth judicial circuit~~
 9 ~~in a manner not inferior to their prior status. The obligation of~~
 10 ~~the state for retirement benefits to employees of the court of~~
 11 ~~claims for their accrued service in the court of claims shall not~~
 12 ~~be transferred. The retirement system available to public employees~~
 13 ~~in Ingham county shall provide retirement benefits to employees of~~
 14 ~~the court of claims not inferior to those provided therefor under~~
 15 ~~their prior status.~~

16 Sec. 6419. (1) Except as provided in sections ~~6419a-6421~~ and
 17 6440, the jurisdiction of the court of claims, as conferred upon it
 18 by this chapter, ~~shall be~~ **IS** exclusive. **ALL ACTIONS INITIATED IN**
 19 **THE COURT OF CLAIMS SHALL BE FILED IN THE COURT OF APPEALS.** The
 20 state administrative board is ~~hereby~~ vested with discretionary
 21 authority upon the advice of the attorney general ~~,~~ to hear,
 22 consider, determine, and allow any claim against the state in an
 23 amount less than \$1,000.00. Any claim so allowed by the state
 24 administrative board shall be paid in the same manner as judgments
 25 are paid under section 6458 upon certification of the allowed claim
 26 by the secretary of the state administrative board to the clerk of
 27 the court of claims. ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS**

1 SECTION, THE court has THE FOLLOWING power and jurisdiction:

2 (a) To hear and determine ~~all claims and demands,~~ ANY CLAIM OR
 3 DEMAND, STATUTORY OR CONSTITUTIONAL, liquidated ~~and~~ OR
 4 unliquidated, ex contractu ~~and~~ OR ex delicto, OR ANY DEMAND FOR
 5 MONETARY, EQUITABLE, OR DECLARATORY RELIEF OR ANY DEMAND FOR AN
 6 EXTRAORDINARY WRIT against the state ~~and~~ OR any of its departments
 7 ~~, commissions, boards, institutions, arms, or agencies.~~ OR OFFICERS
 8 NOTWITHSTANDING ANOTHER LAW THAT CONFERS JURISDICTION OF THE CASE
 9 IN THE CIRCUIT COURT.

10 (b) To hear and determine any ~~claims~~ CLAIM or ~~demands,~~ DEMAND,
 11 STATUTORY OR CONSTITUTIONAL, liquidated or unliquidated, ex
 12 contractu or ex delicto, ~~which~~ OR ANY DEMAND FOR MONETARY,
 13 EQUITABLE, OR DECLARATORY RELIEF OR ANY DEMAND FOR AN EXTRAORDINARY
 14 WRIT THAT may be pleaded by way of counterclaim on the part of the
 15 state or any ~~department, commission, board, institution, arm, or~~
 16 ~~agency of the state~~ OF ITS DEPARTMENTS OR OFFICERS against any
 17 claimant who may bring an action in the court of claims. Any claim
 18 of the state or ~~of any department, commission, board, institution,~~
 19 ~~arm, or agency of the state~~ OF ITS DEPARTMENTS OR OFFICERS may be
 20 pleaded by way of counterclaim in any action brought against the
 21 state ~~, or any other department, commission, board, institution,~~
 22 ~~arm, or agency of the state.~~ OF ITS DEPARTMENTS OR OFFICERS.

23 (C) TO APPOINT AND UTILIZE A SPECIAL MASTER AS THE COURT
 24 CONSIDERS NECESSARY.

25 (D) TO HEAR AND DETERMINE ANY ACTION CHALLENGING THE VALIDITY
 26 OF A NOTICE OF TRANSFER DESCRIBED IN SECTION 6404(2) OR (3).

27 (2) The judgment entered by the court of claims upon any ~~such~~

1 claim **DESCRIBED IN SUBSECTION (1)**, either against or in favor of
 2 the state or any ~~department, commission, board, institution, arm,~~
 3 ~~or agency of the state,~~ **OF ITS DEPARTMENTS OR OFFICERS**, upon
 4 becoming final ~~shall be~~ **IS** res adjudicata ~~JUDICATA~~ of that claim.
 5 Upon the trial of any cause in which any demand is made by the
 6 state or any ~~department, commission, board, institution, arm, or~~
 7 ~~agency of the state~~ **OF ITS DEPARTMENTS OR OFFICERS** against the
 8 claimant either by way of setoff, recoupment, or cross declaration,
 9 the court shall hear and determine each claim or demand, and if the
 10 court finds a balance due from the claimant to the state, the court
 11 shall render judgment in favor of the state for the balance. Writs
 12 of execution or garnishment may issue upon the judgment the same as
 13 from the circuit court of this state. The judgment entered by the
 14 court of claims upon any claim, either for or against the claimant,
 15 ~~shall be~~ **IS** final unless appealed from as provided in this chapter.

16 (3) The court of claims ~~shall~~ **DOES** not have jurisdiction of
 17 any claim for compensation under ~~the provisions of~~ either of the
 18 following:

19 (a) The worker's disability compensation act of 1969, ~~Act No.~~
 20 ~~317 of the Public Acts of 1969, being sections 418.101 to 418.941~~
 21 ~~of the Michigan Compiled Laws. 1969 PA 317, MCL 418.101 TO 418.941.~~

22 (b) ~~Act No. 329 of the Public Acts of 1937, as amended, being~~
 23 ~~sections 419.101 to 419.104. 1937 PA 329, MCL 419.101 TO 419.104.~~

24 (4) This chapter ~~shall~~ **DOES** not deprive the circuit court of
 25 this state of jurisdiction over actions brought by the taxpayer
 26 under the general sales tax act, ~~Act No. 167 of the Public Acts of~~
 27 ~~1933, being sections 205.51 to 205.78 of the Michigan Compiled~~

1 ~~Laws, or proceedings for declaratory or equitable relief, or any~~
2 ~~other actions against state agencies based upon the statutes of~~
3 ~~this state in such case made and provided, which expressly confer~~
4 ~~jurisdiction thereof 1933 PA 167, MCL 205.51 TO 205.78, upon the~~
5 circuit court, or proceedings to review findings as provided in the
6 Michigan employment security act, ~~Act No. 1 of the Public Acts of~~
7 ~~the Extra Session of 1936, being sections 421.1 to 421.72 of the~~
8 ~~Michigan Compiled Laws, 1936 (EX SESS) PA 1, MCL 421.1 TO 421.75,~~
9 or any other similar TAX OR EMPLOYMENT SECURITY proceedings
10 expressly authorized by the statutes of this state. ~~in such case~~
11 ~~made and provided.~~

12 (5) THIS CHAPTER DOES NOT DEPRIVE THE CIRCUIT COURT OF
13 EXCLUSIVE JURISDICTION OVER APPEALS FROM THE DISTRICT COURT AND
14 ADMINISTRATIVE AGENCIES AS AUTHORIZED BY LAW.

15 (6) THIS CHAPTER DOES NOT DEPRIVE THE CIRCUIT COURT OF
16 EXCLUSIVE JURISDICTION TO ISSUE, HEAR, AND DETERMINE PREROGATIVE
17 AND REMEDIAL WRITS CONSISTENT WITH SECTION 13 OF ARTICLE VI OF THE
18 STATE CONSTITUTION OF 1963.

19 (7) AS USED IN THIS SECTION, "THE STATE OR ANY OF ITS
20 DEPARTMENTS OR OFFICERS" MEANS THIS STATE OR ANY STATE GOVERNING,
21 LEGISLATIVE, OR JUDICIAL BODY, DEPARTMENT, COMMISSION, BOARD,
22 INSTITUTION, ARM, OR AGENCY OF THE STATE, OR AN OFFICER, EMPLOYEE,
23 OR VOLUNTEER OF THIS STATE OR ANY GOVERNING, LEGISLATIVE, OR
24 JUDICIAL BODY, DEPARTMENT, COMMISSION, BOARD, INSTITUTION, ARM, OR
25 AGENCY OF THIS STATE, ACTING, OR WHO REASONABLY BELIEVES THAT HE OR
26 SHE IS ACTING, WITHIN THE SCOPE OF HIS OR HER AUTHORITY WHILE
27 ENGAGED IN OR DISCHARGING A GOVERNMENT FUNCTION IN THE COURSE OF

1 HIS OR HER DUTIES.

2 Sec. 6421. ~~Cases in the court of claims~~ **WITH THE APPROVAL OF**
3 **ALL PARTIES, ANY MATTER WITHIN THE JURISDICTION OF THE COURT OF**
4 **CLAIMS DESCRIBED IN SECTION 6419(1)** may be joined for trial with
5 cases arising out of the same transaction or series of transactions
6 ~~which~~ **THAT** are pending in any of the various trial courts of the
7 state. A case in the court of claims **THAT HAS BEEN JOINED WITH THE**
8 **APPROVAL OF ALL PARTIES** shall be tried and determined by the judge
9 even though the trial court action with which it may be joined is
10 tried to a jury under the supervision of the same trial judge.

11 Sec. 8304. In a district court district in which the district
12 court is affected by a plan of concurrent jurisdiction adopted
13 under chapter 4, the district court has concurrent jurisdiction
14 with the circuit court or the probate court, or both, as provided
15 in the plan of concurrent jurisdiction, except as to the following
16 matters:

17 (a) The circuit court has exclusive jurisdiction over appeals
18 from the district court and from administrative agencies as
19 authorized by statute.

20 (b) The circuit court has exclusive jurisdiction and power to
21 issue, hear, and determine prerogative and remedial writs
22 consistent with section 13 of article VI of the state constitution
23 of 1963.

24 ~~— (c) The circuit court has exclusive jurisdiction to hear and~~
25 ~~decide matters within the jurisdiction of the court of claims under~~
26 ~~chapter 64.~~

27 Enacting section 1. Section 6419a of the revised judicature

1 act of 1961, 1961 PA 236, MCL 600.6419a, is repealed.