

# Legislative Analysis

---



## COURT OF CLAIMS FOLLOW-UP LEGISLATION

Mary Ann Cleary, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5156 (Substitute H-4)**

**Sponsor: Rep. Mike Shirkey**

**Committee: Government Operations**

**Complete to 12-4-13**

*(Enacted as PA 205 of 2013)*

## A SUMMARY OF HOUSE BILL 5156 AS REPORTED FROM COMMITTEE

House Bill 5156 would amend Chapter 64 of the Revised Judicature Act, which deals with the Court of Claims. The Court of Claims is the court with the jurisdiction over claims and demands against the State of Michigan and any of its departments or officers. It also has jurisdiction over any counterclaim on the part of the state against any claimant who brings an action in the Court of Claims.

Recent legislation, Public Act 164 of 2013 (Senate Bill 652), transferred the Court of Claims from the 30th Judicial Circuit (Ingham County Circuit Court) to the Michigan Court of Appeals.

Under PA 164, the Court of Claims now consists of four appeals court judges from at least two Court of Appeals districts assigned by the Michigan Supreme Court. All matters pending in the Court of Claims as of the bill's effective date (November 12, 2013) were transferred to the clerk of the Court of Appeals, acting as the clerk of the Court of Claims, for assignment to a Court of Appeals judge sitting as a Court of Claims judge.

House Bill 5156 would amend the Court of Claims chapter of the RJA to specify that (1) nothing in the chapter eliminates or creates any right a party may have to a trial by jury, including any right that existed before November 12, 2013; and (2) nothing in the chapter deprives the circuit, district, or probate court of jurisdiction to hear and determine a claim for which there is a right to a trial by jury as provided by law. The bill states that if a party has the right to a trial by jury and asserts that right as required by law, the claim may be heard and determined by a circuit, district, or probate court in the appropriate venue (with certain exceptions specified later).

The bill also would specify that for declaratory or equitable relief or demand for extraordinary writ sought by a claimant within the jurisdiction of the Court of Claims and arising out of the same transaction or series of transaction with a matter asserted for which a party has the right to a trial by jury, the Court of Claims would retain exclusive jurisdiction over the matter of declaratory or equitable relief or a demand for extraordinary writ until a final judgment has been entered, and the matter would be stayed until final judgment on the matter of declaratory or equitable relief or a demand for extraordinary writ.

The bill would specify that, except for matters transferred to the Court of Claims under Section 6404(2), the Court of Claims' jurisdiction in a matter within its jurisdiction and

pending in any circuit, district, or probate court on November 12, 2013, would be as follows:

- If the matter is not transferred under Section 6404(3) of the act, the Court of Claims' jurisdiction is not exclusive and the circuit, district, or probate court could continue its jurisdiction over the matter.
- If the matter is transferred to the Court of Claims under Section 6404(3) of the act, the Court of Claims has exclusive jurisdiction over the matter.

[Section 6404(2) is the provision that transfers all matters pending before the Court of Claims as of 11-12-13 to the clerk of the state Court of Appeals for assignment to an appeals court judge sitting as a Court of Claims judge.

Section 6404(3) says that, as of 11-12-13, any matter within the jurisdiction of the Court of Claims pending or later filed with the court must be transferred to the new Court of Claims; this refers to the court's jurisdiction to: (1) hear and determine any claim or demand or any demand, statutory or constitutional . . . or any demand for monetary, equitable, or declaratory relief or any demand for an extraordinary writ against the state or "any of its departments or officers," notwithstanding another law that confers jurisdiction of the case in the circuit court; (2) hear and determine any counterclaim on the part of the state, or any of its departments or officers, against any claimant who brought an action in the Court of Claims; (3) appoint and use a special master as considered necessary; and (4) hear and determine any action challenging the validity of a notice of the transfer of pending and future Court of Claims matters from the 30th Circuit Court to the Court of Appeals.]

#### **FISCAL IMPACT:**

This is companion legislation to the recently enacted Senate Bill 652 (PA 164). There is a separate summary available with a fiscal impact statement on that legislation. A fiscal analysis of House Bill 5156 is in process.

#### **POSITIONS:**

The Michigan Association for Justice (trial lawyers) testified in support the bill if amended. (12-3-13)

The Michigan Defense Trial Counsel supports the bill with amendments. (12-3-13)

The State Bar of Michigan testified in support the bill with amendments. (12-3-13)

Legislative Analyst: E. Best  
Chris Couch  
Fiscal Analyst: Robin Risko

---

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.