

HOUSE BILL No. 5700

March 8, 2018, Introduced by Reps. Glenn and LaFave and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 6419 and 6421 (MCL 600.6419 and 600.6421), section 6419 as amended by 2013 PA 164 and section 6421 as amended by 2013 PA 205, and by adding section 1476.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 1476. (1) IN AN ACTION AGAINST THIS STATE THAT IS NOT**
2 **BROUGHT IN THE COURT OF CLAIMS, THE PERSON BRINGING THE ACTION HAS**
3 **A RIGHT TO TRIAL BY JURY. A JURY TRIAL MUST BE DEMANDED IN THE SAME**
4 **MANNER AS A JURY TRIAL IS DEMANDED IN THE CIRCUIT COURT UNDER THE**
5 **MICHIGAN COURT RULES.**

6 **(2) THIS SECTION APPLIES TO AN ACTION IN WHICH A PERSON MAKES**
7 **ANY CLAIM OR DEMAND AGAINST THIS STATE, WHETHER CONSTITUTIONAL OR**

1 STATUTORY, LIQUIDATED OR UNLIQUIDATED, OR ARISING FROM A CONTRACT
2 OR A TORT, OR DEMANDS MONETARY, EQUITABLE, OR DECLARATORY RELIEF
3 AGAINST THIS STATE. THIS SECTION APPLIES REGARDLESS OF WHETHER THE
4 CLAIM OR DEMAND WAS ONE AS TO WHICH THE CLAIMANT HISTORICALLY HAD A
5 RIGHT TO JURY TRIAL.

6 (3) IN AN ACTION IN WHICH A JURY HAS BEEN DEMANDED UNDER
7 SUBSECTION (1), THE JURY SHALL DETERMINE ALL QUESTIONS OF FACT
8 UNLESS THE PERSON BRINGING THE ACTION STIPULATES OTHERWISE.

9 Sec. 6419. (1) Except as **OTHERWISE** provided in **THIS SECTION**
10 **AND** sections 6421 and 6440, the jurisdiction of the court of
11 claims, as conferred ~~upon~~**ON** it by this chapter, is exclusive. All
12 actions initiated in the court of claims ~~shall~~**MUST** be filed in the
13 court of appeals. The state administrative board is vested with
14 discretionary authority ~~upon~~**ON** the advice of the attorney general
15 to hear, consider, determine, and allow any claim against ~~the~~**THIS**
16 state in an amount less than \$1,000.00. ~~Any claim so allowed by the~~
17 ~~state administrative board shall be paid in the same manner as~~
18 ~~judgments are paid under section 6458 upon certification of the~~
19 ~~allowed claim by the secretary of the state administrative board to~~
20 ~~the clerk of the court of claims.~~ Except as otherwise provided in
21 this section, the court **OF CLAIMS** has the following power and
22 jurisdiction:

23 (a) To hear and determine any claim or demand, statutory or
24 constitutional, liquidated or unliquidated, ex contractu or ex
25 delicto, or any demand for monetary, equitable, or declaratory
26 relief or ~~any demand~~ for an extraordinary writ against ~~the~~**THIS**
27 state or any of its departments or officers, notwithstanding

1 another law that confers jurisdiction of the case in the circuit
2 court.

3 (b) To hear and determine any claim or demand, statutory or
4 constitutional, liquidated or unliquidated, ex contractu or ex
5 delicto, or any demand for monetary, equitable, or declaratory
6 relief or ~~any demand~~ for an extraordinary writ that may be pleaded
7 by way of counterclaim on the part of ~~the~~ **THIS** state or any of its
8 departments or officers against any claimant who may bring an
9 action in the court of claims. ~~Any~~ **A** claim of ~~the~~ **THIS** state or any
10 of its departments or officers may be pleaded by way of
11 counterclaim in ~~any~~ **AN** action brought against ~~the~~ **THIS** state or any
12 of its departments or officers.

13 (c) To appoint and ~~utilize~~ **USE** a special master as the court
14 considers necessary.

15 (d) To hear and determine any action challenging the validity
16 of a notice of transfer described in section 6404(2) or (3).

17 (2) ~~The~~ **A** judgment entered by the court of claims ~~upon any~~ **ON**
18 **A** claim described in subsection (1), either against or in favor of
19 ~~the~~ **THIS** state or any of its departments or officers, ~~upon~~ **ON**
20 becoming final, is res judicata of ~~that~~ **THE** claim. ~~Upon~~ **ON** the
21 trial of ~~any cause~~ **AN ACTION** in which ~~any~~ **A** demand is made by ~~the~~
22 **THIS** state or any of its departments or officers against the
23 claimant either by way of setoff, recoupment, or cross declaration,
24 the court shall hear and determine each claim or demand, and if the
25 court finds a balance due from the claimant to ~~the~~ **THIS** state, the
26 court shall render judgment in favor of ~~the~~ **THIS** state for the
27 balance. Writs of execution or garnishment may issue ~~upon~~ **ON** the

1 judgment **IN** the same **MANNER** as from the circuit court. ~~of this~~
2 ~~state. The~~ **A** judgment entered by the court of claims, ~~upon any~~
3 ~~claim,~~ either for or against the claimant, is final unless appealed
4 ~~from~~ as provided in this chapter.

5 (3) The court of claims does not have jurisdiction of any
6 claim for compensation under either of the following:

7 (a) The worker's disability compensation act of 1969, 1969 PA
8 317, MCL 418.101 to 418.941.

9 (b) 1937 PA 329, MCL 419.101 to 419.104.

10 (4) This chapter does not deprive the circuit court ~~of this~~
11 ~~state~~ of jurisdiction over actions brought by the taxpayer under
12 the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, ~~upon~~
13 **IN** the circuit court, ~~or~~ proceedings to review findings as provided
14 in the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL
15 421.1 to 421.75, or any other similar tax or employment security
16 proceedings expressly authorized by the statutes of this state.

17 (5) This chapter does not deprive the circuit court of
18 exclusive jurisdiction over appeals from the district court and
19 administrative agencies as authorized by law.

20 (6) This chapter does not deprive the circuit court of
21 exclusive jurisdiction to issue, hear, and determine prerogative
22 and remedial writs consistent with section 13 of article VI of the
23 state constitution of 1963.

24 **(7) THE COURT OF CLAIMS DOES NOT HAVE JURISDICTION OVER AN**
25 **ACTION BROUGHT IN ANOTHER COURT AND DESCRIBED IN SECTION 1476 IF**
26 **THE PERSON BRINGING THE ACTION HAS DEMANDED A JURY TRIAL AS**
27 **PROVIDED IN SECTION 1476.**

1 (8) ~~(7)~~As used in this section, "~~the~~"**THIS** state or any of
 2 its departments or officers" means this state or any state
 3 governing, legislative, or judicial body, department, commission,
 4 board, institution, arm, or agency of ~~the~~**THIS** state, or an
 5 officer, employee, or volunteer of this state or any governing,
 6 legislative, or judicial body, department, commission, board,
 7 institution, arm, or agency of this state, acting, or who
 8 reasonably believes that he or she is acting, within the scope of
 9 his or her authority while engaged in or discharging a government
 10 function in the course of his or her duties.

11 Sec. 6421. (1) Nothing in this chapter eliminates ~~or creates~~
 12 any right a party may have to a trial by jury, including any right
 13 that existed before November 12, 2013. Nothing in this chapter
 14 deprives the circuit, district, or probate court of jurisdiction to
 15 hear and determine a claim for which there is a right to a trial by
 16 jury as otherwise provided by law, including a claim against an
 17 individual employee of this state for which there is a right to a
 18 trial by jury as otherwise provided by law. Except as otherwise
 19 provided in this section, if a party has the right to a trial by
 20 jury and asserts that right as required by law, the claim ~~may~~**MUST**
 21 be heard and determined by a circuit, district, or probate court in
 22 the appropriate venue.

23 (2) For **A DEMAND FOR** declaratory or equitable relief or a
 24 ~~demand for~~ **AN** extraordinary writ ~~sought by a party within the~~
 25 jurisdiction of the court of claims described in section 6419(1)
 26 and arising out of the same transaction or series of transactions
 27 ~~with a matter asserted~~ **AS A CLAIM** for which a party has the right

1 to a trial by jury under subsection (1), unless joined as provided
 2 in subsection (3), the court of claims ~~shall retain~~ **RETAINS**
 3 exclusive jurisdiction over the ~~matter of~~ **DEMAND FOR** declaratory or
 4 equitable relief or a ~~demand for~~ **AN** extraordinary writ **WITHIN THE**
 5 **JURISDICTION OF THE COURT OF CLAIMS AND SHALL ENTER A STAY OF THE**
 6 **ACTION** until a final judgment has been entered, ~~and the matter~~
 7 ~~asserted for which a party has~~ **IN THE ACTION IN WHICH** the right to
 8 a trial by jury ~~under subsection (1) shall be stayed until final~~
 9 ~~judgment on the matter of declaratory or equitable relief or a~~
 10 ~~demand for extraordinary writ.~~ **HAS BEEN ASSERTED.**

11 (3) With the approval of all parties, any matter within the
 12 jurisdiction of the court of claims described in section 6419(1)
 13 may be joined for trial with cases arising out of the same
 14 transaction or series of transactions that are pending in any of
 15 the various trial courts of ~~the~~ **THIS** state. A case in the court of
 16 claims that has been joined with the approval of all parties ~~shall~~
 17 **MUST** be tried and determined by the ~~judge even though the trial~~
 18 ~~court action with which it may be joined is tried to a jury. under~~
 19 ~~the supervision of the same trial judge.~~

20 (4) Except as provided in subsection (5), the court of claims'
 21 jurisdiction in a matter within its jurisdiction as described in
 22 section 6419(1) and pending in any circuit, district, or probate
 23 court on November 12, 2013 is as follows:

24 (a) If the matter is not transferred under section 6404(3),
 25 the jurisdiction of the court of claims is not exclusive and the
 26 circuit, district, or probate court may continue to exercise
 27 jurisdiction over ~~that~~ **THE** matter.

1 (b) If the matter is transferred to the court of claims under
2 section 6404(3), the court of claims has exclusive jurisdiction
3 over the matter, subject to subsection (1).

4 (5) Subsection (4) does not apply to matters transferred to
5 the court of claims under section 6404(2).

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.