

HOUSE BILL No. 4847

September 9, 2015, Introduced by Rep. Glenn 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 ANY 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
8 STATUTORY, LIQUIDATED OR UNLIQUIDATED, OR ARISING FROM A CONTRACT
9 OR A TORT, OR DEMANDS MONETARY, EQUITABLE, OR DECLARATORY RELIEF

1 AGAINST THIS STATE. THIS SECTION APPLIES REGARDLESS OF WHETHER THE
2 CLAIM OR DEMAND WAS ONE AS TO WHICH THE CLAIMANT HISTORICALLY HAD A
3 RIGHT TO JURY TRIAL.

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

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

21 (a) To hear and determine any claim or demand, statutory or
22 constitutional, liquidated or unliquidated, ex contractu or ex
23 delicto, or any demand for monetary, equitable, or declaratory
24 relief or ~~any demand for an extraordinary writ against the~~**THIS**
25 state or any of its departments or officers, notwithstanding
26 another law that confers jurisdiction of the case in the circuit
27 court.

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

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

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

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

~~claim~~, either for or against the claimant, is final unless appealed from as provided in this chapter.

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

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

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

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

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

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

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

(8) ~~(7)~~ As used in this section, ~~"the"~~ **"THIS"** state or any of its departments or officers" means this state or any state

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

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

21 (2) For **A DEMAND FOR** declaratory or equitable relief or a
22 ~~demand for~~ **AN** extraordinary writ ~~sought by a party within the~~
23 jurisdiction of the court of claims described in section 6419(1)
24 and arising out of the same transaction or series of transactions
25 ~~with a matter asserted~~ **AS A CLAIM** for which a party has the right
26 to a trial by jury under subsection (1), unless joined as provided
27 in subsection (3), the court of claims ~~shall retain~~**RETAINS**

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

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

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

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

26 (b) If the matter is transferred to the court of claims under
27 section 6404(3), the court of claims has exclusive jurisdiction

1 over the matter, subject to subsection (1).

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

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