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## BILL ANALYSIS



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House Bill 4222 (Substitute H-2 as passed by the House)  
House Bill 4223 (as passed by the House)  
Sponsor: Representative Graham Filler (H.B. 4222)  
Representative David LaGrand (H.B. 4223)  
House Committee: Judiciary  
Senate Committee: Judiciary and Public Safety

Date Completed: 10-13-21

**CONTENT**

**House Bill 4222 (H-2)** would amend the Revised Judicature Act (RJA) to do the following:

- Specify that four circuit court judges instead of four Court of Appeals judges, appointed by the Supreme Court would be assigned to the Court of Claims.
- Require the clerk of a circuit court instead of the clerk of the Court of Appeals, to act as the clerk of the Court of Claims for any Court of Claims matter assigned to that circuit court.
- Extend the term of a judge assigned to the Court of Claims from two years to six years.
- Require the local funding unit and the clerk of the circuit court where a judge who was assigned to the Court of Claims presided to be notified on an assignment 60 days before the judge's term expired.
- Require the Court of Claims to provide electronic means of filing documents and maintain an electronic document in each case.
- Require the Court of Claims, whenever possible, to conduct hearing on a video conferencing platform that allowed for remote appearances by attorneys and parties, unless a party objected.

**House Bill 4223** would amend the RJA do the following:

- Require the clerk of the Court of Appeals to serve as clerk of the Court of Claims for certain purposes.
- Require a plaintiff to file a cause of action in the Court of Claims in any Court of Appeals district, and require the clerk of the Court of Appeals to forward it to the clerk of the court of claims in which the matter would be heard.
- Require the State to reimburse the counties in which the Court of Claims sat for reasonable and actual costs incurred by those counties for implementing jurisdictional duties in the circuit court imposed on the counties.
- Require those counties to submit quarterly itemized costs to the State Court Administrative Office (SCAO).

The bills are tie-barred. House Bill 4222 (H-2) would take effect 90 days after its enactment.

## **House Bill 4222 (H-2)**

Section 6404 of the RJA specifies that the Court of Claims consists of four Court of Appeals judges from at least two Court of Appeals districts assigned by the Supreme Court. Instead, under the bill, the Court of Claims would consist of four judges of the circuit court assigned by the Supreme Court as described below.

Under Section 6404, a Court of Appeals judge while sitting as a judge of the Court of Claims may exercise the jurisdiction of the Court of Claims as provided by law. The bill would refer to judge of the circuit court instead of a Court of Appeals judge. Also, under the bill, in assigning the judges of the circuit court who would sit as judges of the Court of Claims, the Supreme Court would have to ensure all of the following:

- One judge of the circuit court in each of the four Court of Appeals districts be assigned to sit as a judge of the Court of Claims.
- At least one judge of the circuit court from a county with a population of less than 60,000 be assigned to sit as a judge of the Court of Claims.
- Not more than two of the judges of the circuit court assigned to sit as judges of the Court of Claims were from counties that had populations of more than 500,000.

Section 6404 requires all matters pending in the Court of Claims to be 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. The bill would refer to a judge of the circuit court instead of a Court of Appeals judge. Also, under the bill, after a matter was transferred to a judge of the circuit court, the clerk of the circuit court where the matter was assigned would have to act as the clerk of the Court of Claims for that matter.

Under Section 6404, any matter within the jurisdiction of the Court of Claims pending or later filed in any court, upon notice of the State or a department or officer of the State, must be transferred to the Court of Claims. The transfer is effective upon the filing of the transfer notice. The State or a department or officer of the State must file a copy of the transfer notice with the clerk of the Court of Appeals, who acts as the clerk of the Court of Claims, for purposes of assignment to a Court of Appeals judge sitting as a Court of Claims judge. The bill would refer to a judge of the circuit court instead of a Court of Appeals judge. Also, under the bill, after a matter was assigned to the judge of the circuit court, the clerk of the circuit court where the matter was assigned would have to act as the clerk of the Court of Claims for that matter.

Section 6404 specifies that if a judge assigned to serve on the Court of Claims is disabled, disqualified, or otherwise unable to attend to a matter, another judge assigned to sit as a judge of the Court of Claims may continue, hear, determine, and sign orders and other documents in the matter. The bill would allow the State Court Administrator to assign a replacement judge to sit as a Court of Claims judge for that matter only.

Section 6404 specifies that a judge assigned as a judge to serve on the Court of Claims is assigned for a two-year term and allows him or her to be reassigned at the expiration of that term. Under the bill, a Court of Claims judge would be assigned for a six-year, instead of two-year, term or until the end of his or her elected term, whichever was shorter, and could be reassigned at the expiration of that term.

Under Section 6404, the term of a judge of the Court of Claims expires on May 1 of each odd-numbered year. The bill would delete this provision.

Section 6404 specifies that when a judge who is sitting as a judge of the Court of Claims leaves office or otherwise is unable to serve as a judge of the Court of Claims, the Supreme Court may assign a Court of Appeals judge to serve for the remainder of the judge's term on the Court of Claims. The Supreme Court must select a chief judge of the Court of Claims from among the Court of Appeals judges assigned to the Court of Claims. The bill would refer to a judge of the circuit court instead of a Court of Appeals judge.

Under the bill, the local funding unit and the clerk of the circuit court where a judge who was assigned to the Court of Claims presided would have to be notified of an assignment 60 days before the judge's term expired.

The Court of Claims would have to provide electronic means of filing documents and maintain an electronic docket in each case. Unless a party objected, the Court of Claims would have to, whenever possible, conduct hearings on a video conferencing platform that allowed for remote appearances by attorneys and parties.

### **House Bill 4223**

Section 6410 of the RJA requires the clerk of the Court of Appeals to serve as the clerk of the Court of Claims. A plaintiff may file a cause of action in the Court of Claims in any Court of Appeals district.

Instead, under the bill, the clerk of the Court of Appeals would serve as the clerk of the Court of Claims for purposes of receiving a filing of a cause of action in the Court of Claims, or for filing a notice of intention to file a claim under Section 6431, assigning a cause of action to a judge of the circuit court sitting as a Court of Claims judge, and all other matters requiring the attention of the clerk in a matter the case is assigned. A plaintiff *would have to* file a cause of action in the Court of Claims in any Court of Appeals district. After issuing a summons, the clerk of the Court of Appeals would have to forward a cause of action filed under Section 6410 to the clerk of the circuit court in which the matter would be heard. After a matter was forwarded as provided in the bill, the clerk of the circuit court where the matter was assigned would have to act as the clerk of the Court of Claims for that matter. (Under Section 6431, except as otherwise provided, a claim may not be maintained against the State unless the claimant, within one year after the claim has accrued, files in the office of the clerk of the Court of Claims either a written claim or a written notice of intention to file a claim against the State or any of its departments, commissions, boards, institutions, arms, or agencies.)

Section 6404 requires the clerk of the Court of Claims to assign, by blind draw, a cause of action filed in the Court of Claims to a Court of Appeals judge sitting as a Court of Claims judge. The bill would refer to the clerk of the Court of Appeals instead of the clerk of the Court of Claims. Additionally, the bill would refer to a judge of the circuit court instead of a Court of Appeals judge.

Section 6413 requires the Court of Claims to sit in the Court of Appeals district where the Court of Appeals judge serving as a judge of the Court of Claims sits, unless otherwise determined by the Chief Judge of the Court of Claims. The bill would refer to the circuit court where a judge of the circuit court serving as a judge of the Court of Claims sat instead of the Court of Appeals district where the Court of Appeals judge sat.

The bill would require the State to reimburse the counties in which the Court of Claims sat for the reasonable and actual costs incurred by those counties for implementing jurisdictional duties in the circuit court imposed on the counties. The counties in which the Court of Claims sat would have to submit quarterly the counties' itemized costs to SCAO. After determination

by State Court Administrator of the reasonableness of the amount to be paid, payment would have to be made under the State's accounting laws. Determination of reasonableness by the State Court Administrator would be conclusive.

MCL 600.6404 (H.B. 4222)  
600.6410 & 6413 (H.B. 4223)

### **BACKGROUND**

The Court of Claims is a court of limited jurisdiction tasked with hearing and determining all civil actions filed against the State and its departments or agencies. Before 2013, the Court of Claims was a function of the Circuit Court for the 30<sup>th</sup> Judicial Circuit (Ingham County). Any judge of that circuit, and any judge the State Court Administrator assigned into that circuit, could exercise the jurisdiction of the Court of Claims.

Public Act 164 of 2013 transferred the Court of Claims to the Court of Appeals. The Michigan Supreme Court assigns four Court of Appeals judges, including a chief judge, to the Court of Claims. Each Court of Claims case is heard by a single judge. Currently, the Court of Claims operates similarly to any other circuit court in the State; however, there is no right to a jury trial.

Legislative Analyst: Stephen Jackson

### **FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on the State and local circuit courts. Additional, but unknown, costs would be expected in transferring the current Court of Claims docket to a system that distributes cases to circuit courts; a savings from increased efficiencies could be anticipated once a replacement system was in place.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.