
SUBSTITUTE HOUSE BILL 1553

State of Washington 61st Legislature 2009 Regular Session

By House Judiciary (originally sponsored by Representatives Takko, Goodman, Williams, Hurst, Pedersen, and Campbell)

READ FIRST TIME 02/17/09.

1 AN ACT Relating to claims for damages against the state and local
2 governmental entities; and amending RCW 4.96.020, 4.92.100, and
3 4.92.110.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 4.96.020 and 2006 c 82 s 3 are each amended to read as
6 follows:

7 (1) The provisions of this section apply to claims for damages
8 against all local governmental entities and their officers, employees,
9 or volunteers, acting in such capacity, except that claims involving
10 injuries from health care are governed solely by the procedures set
11 forth in chapter 7.70 RCW.

12 (2) The governing body of each local governmental entity shall
13 appoint an agent to receive any claim for damages made under this
14 chapter. The identity of the agent and the address where he or she may
15 be reached during the normal business hours of the local governmental
16 entity are public records and shall be recorded with the auditor of the
17 county in which the entity is located. All claims for damages against
18 a local governmental entity, or against any local governmental entity's
19 officers, employees, or volunteers, acting in such capacity, shall be

1 presented to the agent within the applicable period of limitations
2 within which an action must be commenced. Presentation is accomplished
3 by delivery to the agent or other person authorized to accept delivery
4 at the agent's office, or by registered mail, or by certified mail,
5 return receipt requested. The failure of a local governmental entity
6 to comply with the requirements of this section precludes that local
7 governmental entity from raising a defense under this chapter.

8 ~~(3) ((All claims for damages arising out of tortious conduct must~~
9 ~~locate and describe the conduct and circumstances which brought about~~
10 ~~the injury or damage, describe the injury or damage, state the time and~~
11 ~~place the injury or damage occurred, state the names of all persons~~
12 ~~involved, if known, and shall contain the amount of damages claimed,~~
13 ~~together with a statement of the actual residence of the claimant at~~
14 ~~the time of presenting and filing the claim and for a period of six~~
15 ~~months immediately prior to the time the claim arose. If the claimant~~
16 ~~is incapacitated from verifying, presenting, and filing the claim in~~
17 ~~the time prescribed or if the claimant is a minor, or is a nonresident~~
18 ~~of the state absent therefrom during the time within which the claim is~~
19 ~~required to be filed, the claim may be verified, presented, and filed~~
20 ~~on behalf of the claimant by any relative, attorney, or agent~~
21 ~~representing the claimant.))~~ All claims for damages must be presented
22 on the standard tort claim form, maintained by the risk management
23 division of the office of financial management and on its web site, and
24 must: Describe the conduct and the circumstances that brought about
25 the injury or damage; describe the injury or damage; state the time and
26 place that the injury or damage occurred; state the names of all
27 persons involved, if known; and contain the amount of damages claimed,
28 together with a statement of the actual residence of the claimant at
29 the time of presenting the claim and at the time the claim arose. The
30 claim must be signed: (a) By the party making the claim, who must also
31 verify the claim; (b) pursuant to a written power of attorney by the
32 attorney in fact; or (c) by an attorney admitted to practice in
33 Washington state on the claimant's behalf. Local governmental entities
34 shall make available the standard tort claim form with instructions on
35 how the form is to be presented, as well as the name, address, and
36 business hours of the agent of the local governmental entity. The
37 claim form must not list the claimant's social security number and must
38 not require information not specified under this section. If the local

1 governmental entity has actual knowledge of a claim and a claim form is
2 not provided, or if the claim form provided by the local governmental
3 entity fails to seek the information specified in this section or
4 incorrectly lists the agent to whom the claim is to be filed, the local
5 governmental entity is deemed to have waived any defense related to the
6 failure to provide that specific information or to file with the proper
7 designated agent. The amount of damages stated on the claim form is
8 not admissible at trial.

9 (4) No action shall be commenced against any local governmental
10 entity, or against any local governmental entity's officers, employees,
11 or volunteers, acting in such capacity, for damages arising out of
12 tortious conduct until sixty calendar days have elapsed after the claim
13 has first been presented to ~~((and filed with))~~ the governing body
14 thereof. The applicable period of limitations within which an action
15 must be commenced shall be tolled during the sixty~~(-)~~ calendar day
16 period. An action commenced within five business days after the sixty
17 calendar day period has elapsed is deemed timely.

18 (5) With respect to the content of claims under this section and
19 all procedural requirements in this section, this section must be
20 liberally construed so that substantial compliance will be deemed
21 satisfactory.

22 **Sec. 2.** RCW 4.92.100 and 2006 c 82 s 1 are each amended to read as
23 follows:

24 (1) All claims against the state, or against the state's officers,
25 employees, or volunteers, acting in such capacity, for damages arising
26 out of tortious conduct, except for claims involving injuries from
27 health care, shall be presented to ~~((and filed with))~~ the risk
28 management division. ~~((All such claims shall be verified and shall~~
29 ~~accurately describe the conduct and circumstances which brought about~~
30 ~~the injury or damage, describe the injury or damage, state the time and~~
31 ~~place the injury or damage occurred, state the names of all persons~~
32 ~~involved, if known, and shall contain the amount of damages claimed,~~
33 ~~together with a statement of the actual residence of the claimant at~~
34 ~~the time of presenting and filing the claim and for a period of six~~
35 ~~months immediately prior to the time the claim arose. If the claimant~~
36 ~~is incapacitated from verifying, presenting, and filing the claim or if~~
37 ~~the claimant is a minor, or is a nonresident of the state, the claim~~

1 ~~may be verified, presented, and filed on behalf of the claimant by any~~
2 ~~relative, attorney, or agent representing the claimant.))~~ Claims
3 involving injuries from health care are governed solely by the
4 procedures set forth in chapter 7.70 RCW, but a copy of the claim must
5 also be sent to the state risk management division. Presentation is
6 accomplished by service upon the agent by any person competent to serve
7 a summons or by registered mail. All claims for damages must be
8 presented on the standard tort claim form, maintained by the risk
9 management division and on its web site, and must: Describe the
10 conduct and the circumstances that brought about the injury or damage;
11 describe the injury or damage; state the time and place that the injury
12 or damage occurred; state the names of all persons involved, if known;
13 and contain the amount of damages claimed, together with a statement of
14 the actual residence of the claimant at the time of presenting the
15 claim and at the time the claim arose. The claim must be signed: (a)
16 By the party making the claim, who must also verify the claim; (b)
17 pursuant to a written power of attorney by the attorney in fact; or (c)
18 by an attorney admitted to practice in Washington state on the
19 claimant's behalf. The amount of damages stated on the claim form is
20 not admissible at trial.

21 (2) The state shall make available the standard tort claim form
22 with instructions on how the form is to be presented, as well as the
23 name, address, and business hours of the risk management division. The
24 claim form must not list the claimant's social security number and must
25 not require information not specified under this section.

26 (3) With respect to the content of ((such)) claims under this
27 section and all procedural requirements in this section, this section
28 ((shall)) must be liberally construed so that substantial compliance
29 will be deemed satisfactory.

30 **Sec. 3.** RCW 4.92.110 and 2006 c 82 s 2 are each amended to read as
31 follows:

32 No action subject to the claim presentation and filing requirements
33 of RCW 4.92.100 shall be commenced against the state, or against any
34 state officer, employee, or volunteer, acting in such capacity, for
35 damages arising out of tortious conduct until sixty calendar days have
36 elapsed after the claim is presented to ((and filed with)) the risk
37 management division. The applicable period of limitations within which

1 an action must be commenced shall be tolled during the sixty ((-))
2 calendar day period. An action commenced within five business days
3 after the sixty calendar day period has elapsed is deemed timely.

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