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**SUBSTITUTE SENATE BILL 5231**

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**State of Washington****54th Legislature****1995 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by Senators Owen and Prince; by request of Department of Transportation)

Read first time 03/03/95.

1       AN ACT Relating to the tort liability account; amending RCW  
2 4.92.130 and 4.92.230; reenacting and amending RCW 43.84.092; providing  
3 an effective date; and declaring an emergency.

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

5       **Sec. 1.** RCW 4.92.130 and 1991 sp.s. c 13 s 92 are each amended to  
6 read as follows:

7       A liability account in the custody of the treasurer is hereby  
8 created as a nonappropriated account to be used solely and exclusively  
9 for the payment of liability settlements and judgments against the  
10 state under 42 U.S.C. Sec. 1981 et seq. or for the tortious conduct of  
11 its officers, employees, and volunteers. A transportation liability  
account is established for payment of tortious liabilities of the  
departments funded by motor vehicle or transportation funds. Earnings  
to the account are to be retained within the account.

15       (1) The purpose of the liability accounts is to: (a) Expediently  
16 pay legal liabilities of the state resulting from tortious conduct; (b)  
17 promote risk control through a cost allocation system which recognizes  
18 agency loss experience, levels of self-retention, and levels of risk

1 exposure; and (c) establish an actuarially sound system to pay incurred  
2 losses, within defined limits.

3 (2) The liability accounts shall be used to pay claims for injury  
4 and property damages exclusive of legal defense costs and agency-  
5 retained expenses otherwise budgeted.

6 (3) No money shall be paid from the liability accounts unless all  
7 proceeds available to the claimant from any valid and collectible  
8 liability insurance shall have been exhausted and unless:

9 (a) The claim shall have been reduced to final judgment in a court  
10 of competent jurisdiction; or

11 (b) The claim has been approved for payment.

12 (4) The liability accounts shall be financed through annual  
13 premiums assessed to state agencies, based on sound actuarial  
14 principles, and shall be for liability coverage in excess of agency-  
15 budgeted self-retention levels.

16 (5) Annual premium levels shall be determined by the risk manager,  
17 with the consultation and advice of the risk management advisory  
18 committee and concurrence from the office of financial management. An  
19 actuarial study shall be conducted to assist in determining the  
20 appropriate level of funding.

21 (6) Disbursements from the liability accounts shall be made to the  
22 claimant, or to the clerk of the court for judgments, upon written  
23 request to the state treasurer from the risk manager.

24 (7) The director of the office of financial management may direct  
25 agencies to transfer moneys from other funds and accounts to the  
26 liability accounts if premiums are delinquent.

27 (8) ((The)) Neither liability account ((shall not)) may exceed  
28 fifty percent of the actuarial value of ((the)) its outstanding  
29 liability as determined annually by the office of risk management. If  
30 ((the)) an account exceeds the maximum amount specified in this  
31 section, premiums may be adjusted by the office of risk management in  
32 order to maintain the account balance at the maximum limits. If, after  
33 adjustment of premiums, the account balance remains above the limits  
34 specified, the excess amount will be prorated back to the appropriate  
35 funds.

36 **Sec. 2.** RCW 4.92.230 and 1989 c 419 s 7 are each amended to read  
37 as follows:

1       (1) The director of the department of general administration shall  
2 establish an ongoing risk management advisory committee. Members of  
3 the committee may include but shall not be limited to representatives  
4 of state agencies, institutions of higher education, local government,  
5 or the private sector.

6       (2) The director of the department of general administration shall  
7 serve as chair. The committee shall meet upon call of the chairperson  
8 and shall adopt rules for the conduct of its business.

9       (3) The risk management advisory committee will provide guidance  
10 in:

11       (a) Determining appropriate roles, responsibilities of the office  
12 of risk management, and policies regarding state-wide risk management;

13       (b) Establishing premiums or other cost allocation systems;

14       (c) Determining appropriate programs and coverages for self-  
15 insurance versus insurance;

16       (d) Developing risk retention pools; and

17       (e) Preparing recommendations for containment of risk exposures.

18       (4) The director shall establish a risk management advisory  
19 subcommittee to provide guidance and represent the interests of the  
20 transportation agencies in the transportation liability account.

21       **Sec. 3.** RCW 43.84.092 and 1994 c 2 s 6 (Initiative Measure No.  
22 601), 1993 sp.s. c 25 s 511, 1993 sp.s. c 8 s 1, 1993 c 500 s 6, 1993  
23 c 492 s 473, 1993 c 445 s 4, 1993 c 329 s 2, and 1993 c 4 s 9 are each  
24 reenacted and amended to read as follows:

25       (1) All earnings of investments of surplus balances in the state  
26 treasury shall be deposited to the treasury income account, which  
27 account is hereby established in the state treasury.

28       (2) The treasury income account shall be utilized to pay or receive  
29 funds associated with federal programs as required by the federal cash  
30 management improvement act of 1990. The treasury income account is  
31 subject in all respects to chapter 43.88 RCW, but no appropriation is  
32 required for refunds or allocations of interest earnings required by  
33 the cash management improvement act. Refunds of interest to the  
34 federal treasury required under the cash management improvement act  
35 fall under RCW 43.88.180 and shall not require appropriation. The  
36 office of financial management shall determine the amounts due to or  
37 from the federal government pursuant to the cash management improvement  
38 act. The office of financial management may direct transfers of funds

1 between accounts as deemed necessary to implement the provisions of the  
2 cash management improvement act, and this subsection. Refunds or  
3 allocations shall occur prior to the distributions of earnings set  
4 forth in subsection (4) of this section.

5 (3) Except for the provisions of RCW 43.84.160, the treasury income  
6 account may be utilized for the payment of purchased banking services  
7 on behalf of treasury funds including, but not limited to, depository,  
8 safekeeping, and disbursement functions for the state treasury and  
9 affected state agencies. The treasury income account is subject in all  
10 respects to chapter 43.88 RCW, but no appropriation is required for  
11 payments to financial institutions. Payments shall occur prior to  
12 distribution of earnings set forth in subsection (4) of this section.

13 (4) Monthly, the state treasurer shall distribute the earnings  
14 credited to the treasury income account. The state treasurer shall  
15 credit the general fund with all the earnings credited to the treasury  
16 income account except:

17 (a) The following accounts and funds shall receive their  
18 proportionate share of earnings based upon each account's and fund's  
19 average daily balance for the period: The capitol building  
20 construction account, the Cedar River channel construction and  
21 operation account, the Central Washington University capital projects  
22 account, the charitable, educational, penal and reformatory  
23 institutions account, the common school construction fund, the county  
24 criminal justice assistance account, the county sales and use tax  
25 equalization account, the data processing building construction  
26 account, the deferred compensation administrative account, the deferred  
27 compensation principal account, the department of retirement systems  
28 expense account, the Eastern Washington University capital projects  
29 account, the education construction fund, the emergency reserve fund,  
30 the federal forest revolving account, the health services account, the  
31 public health services account, the health system capacity account, the  
32 personal health services account, the industrial insurance premium  
33 refund account, the judges' retirement account, the judicial retirement  
34 administrative account, the judicial retirement principal account, the  
35 transportation liability account, the local leasehold excise tax  
36 account, the local real estate excise tax account, the local sales and  
37 use tax account, the medical aid account, the municipal criminal  
38 justice assistance account, the municipal sales and use tax  
39 equalization account, the natural resources deposit account, the

1 perpetual surveillance and maintenance account, the public employees' 2 retirement system plan I account, the public employees' retirement 3 system plan II account, the Puyallup tribal settlement account, the 4 resource management cost account, the site closure account, the special 5 wildlife account, the state employees' insurance account, the state 6 employees' insurance reserve account, the state investment board 7 expense account, the state investment board commingled trust fund 8 accounts, the supplemental pension account, the teachers' retirement 9 system plan I account, the teachers' retirement system plan II account, 10 the tuition recovery trust fund, the University of Washington bond 11 retirement fund, the University of Washington building account, the 12 volunteer fire fighters' relief and pension principal account, the 13 volunteer fire fighters' relief and pension administrative account, the 14 Washington judicial retirement system account, the Washington law 15 enforcement officers' and fire fighters' system plan I retirement 16 account, the Washington law enforcement officers' and fire fighters' 17 system plan II retirement account, the Washington state patrol 18 retirement account, the Washington State University building account, 19 the Washington State University bond retirement fund, the water 20 pollution control revolving fund, and the Western Washington University 21 capital projects account. Earnings derived from investing balances of 22 the agricultural permanent fund, the normal school permanent fund, the 23 permanent common school fund, the scientific permanent fund, and the 24 state university permanent fund shall be allocated to their respective 25 beneficiary accounts. All earnings to be distributed under this 26 subsection (4)(a) shall first be reduced by the allocation to the state 27 treasurer's service fund pursuant to RCW 43.08.190.

28 (b) The following accounts and funds shall receive eighty percent 29 of their proportionate share of earnings based upon each account's or 30 fund's average daily balance for the period: The marine operating 31 fund, the motor vehicle fund, and the transportation fund.

32 (5) In conformance with Article II, section 37 of the state 33 Constitution, no treasury accounts or funds shall be allocated earnings 34 without the specific affirmative directive of this section.

35 NEW SECTION. **Sec. 4.** This act is necessary for the immediate 36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 June 1, 1995.

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