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HOUSE BILL 1744

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Cairnes, Roach, Marine, O'Brien, Hurst, Lovick, Delvin, Esser and Jackley

Read first time 02/02/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to actions and proceedings for damages brought  
2 against law enforcement officers; and amending RCW 4.96.041.

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

4 **Sec. 1.** RCW 4.96.041 and 1993 c 449 s 4 are each amended to read  
5 as follows:

6 (1) Whenever an action or proceeding for damages is brought against  
7 any past or present officer, employee, or volunteer of a local  
8 governmental entity of this state, arising from acts or omissions while  
9 performing or in good faith purporting to perform his or her official  
10 duties, such officer, employee, or volunteer may request the local  
11 governmental entity to authorize the defense of the action or  
12 proceeding at the expense of the local governmental entity.

13 (2) If the legislative authority of the local governmental entity,  
14 or the local governmental entity using a procedure created by ordinance  
15 or resolution, finds that the acts or omissions of the officer,  
16 employee, or volunteer were, or in good faith purported to be, within  
17 the scope of his or her official duties, the request shall be granted.  
18 If the request is granted, the necessary expenses of defending the  
19 action or proceeding shall be paid by the local governmental entity.

1 Any monetary judgment against the officer, employee, or volunteer shall  
2 be paid on approval of the legislative authority of the local  
3 governmental entity or by a procedure for approval created by ordinance  
4 or resolution.

5 (3) The necessary expenses of defending an elective officer of the  
6 local governmental entity in a judicial hearing to determine the  
7 sufficiency of a recall charge as provided in RCW 29.82.023 shall be  
8 paid by the local governmental entity if the officer requests such  
9 defense and approval is granted by both the legislative authority of  
10 the local governmental entity and the attorney representing the local  
11 governmental entity. The expenses paid by the local governmental  
12 entity may include costs associated with an appeal of the decision  
13 rendered by the superior court concerning the sufficiency of the recall  
14 charge.

15 (4) When an officer, employee, or volunteer of the local  
16 governmental entity other than a law enforcement officer covered under  
17 subsection (5) of this section has been represented at the expense of  
18 the local governmental entity under subsection (1) of this section and  
19 the court hearing the action has found that the officer, employee, or  
20 volunteer was acting within the scope of his or her official duties,  
21 and a judgment has been entered against the officer, employee, or  
22 volunteer under chapter 4.96 RCW or 42 U.S.C. Sec. 1981 et seq.,  
23 thereafter the judgment creditor shall seek satisfaction for  
24 nonpunitive damages only from the local governmental entity, and  
25 judgment for nonpunitive damages shall not become a lien upon any  
26 property of such officer, employee, or volunteer. The legislative  
27 authority of a local governmental entity may, pursuant to a procedure  
28 created by ordinance or resolution, agree to pay an award for punitive  
29 damages.

30 (5) When a law enforcement officer makes a request for defense  
31 under subsection (1) of this section, the determination under  
32 subsection (2) of this section as to whether or not the acts or  
33 omissions of the law enforcement officer were, or in good faith  
34 purported to be, within the scope of his or her official duties shall  
35 be made within sixty days. If the request is granted, the necessary  
36 expenses of defending the action or proceeding shall be paid by the  
37 local governmental entity. When a law enforcement officer of the local  
38 governmental entity has been represented at the expense of the local  
39 governmental entity under subsection (1) of this section and the court

1 hearing the action has found that the law enforcement officer was  
2 acting within the scope of his or her official duties, and a judgment  
3 has been entered against the law enforcement officer under this chapter  
4 or 42 U.S.C. Sec. 1981 et seq., any monetary judgment against the law  
5 enforcement officer shall be paid by the legislative authority of the  
6 local governmental entity, and thereafter the judgment creditor shall  
7 seek satisfaction for damages only from the local governmental entity,  
8 and judgment for damages shall not become a lien upon any property of  
9 such law enforcement officer.

10 For the purposes of this section, "law enforcement officer" has the  
11 meaning provided in RCW 9.41.010.

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