

1 portion of the judgment that exceeds these amounts may be reported to
2 the legislature, but may be paid in part or in whole only by further
3 act of the legislature. Notwithstanding the limited waiver of
4 sovereign immunity provided in this section, the state or an agency,
5 institution, or any officer, employee, or volunteer may agree, within
6 the limits of insurance coverage provided, to settle a claim made or a
7 judgment rendered against it without further action by the legislature,
8 but the state or agency has not waived any defense of sovereign
9 immunity or increased the limits of its liability as a result of its
10 obtaining insurance coverage for tortious acts in excess of the waiver
11 provided in this section.

12 (2) The liability of the state, its agencies, and institutions is
13 several only and is not joint.

14 (3) No attorney may charge, demand, receive, or collect, for
15 services rendered, fees in excess of twenty-five percent of any
16 judgment or settlement under this section.

17 **Sec. 2.** RCW 4.92.005 and 1985 c 217 s 6 are each amended to read
18 as follows:

19 For the purposes of RCW 4.92.060, 4.92.070, 4.92.090, 4.92.130,
20 ((4.92.140,)) and 4.92.150, volunteer is defined in RCW 51.12.035.

21 **Sec. 3.** RCW 4.96.010 and 2001 c 119 s 1 are each amended to read
22 as follows:

23 (1) All local governmental entities, whether acting in a
24 governmental or proprietary capacity, shall be liable for damages
25 arising out of their tortious conduct, or the tortious conduct of their
26 past or present officers, employees, or volunteers while performing or
27 in good faith purporting to perform their official duties, to the same
28 extent as if they were a private person or corporation, subject to the
29 limitations provided in subsection (2) of this section. Filing a claim
30 for damages within the time allowed by law shall be a condition
31 precedent to the commencement of any action claiming damages. The laws
32 specifying the content for such claims shall be liberally construed so
33 that substantial compliance therewith will be deemed satisfactory.

34 (2)(a) Local government entities, officers, employees, or
35 volunteers are liable to pay a claim or a judgment by any one person
36 that exceeds the sum of one million dollars or any claim or judgment,
37 or portions thereof, that, when totaled with all other claims or

1 judgments paid by the local government entities, officers, employees,
2 or volunteers arising out of the same incident or occurrence, exceeds
3 the sum of two million dollars. However, a judgment or judgments may
4 be claimed and rendered in excess of these amounts and may be settled
5 and paid under this section up to one million dollars or two million
6 dollars, as the case may be, and that portion of the judgment that
7 exceeds these amounts may be reported to the local legislative
8 authority, but may be paid in part or in whole only by further act of
9 the local legislative authority. Notwithstanding the limited waiver of
10 sovereign immunity provided in this section, the local government
11 entities, officers, employees, or volunteers may agree, within the
12 limits of insurance coverage provided, to settle a claim made or a
13 judgment rendered against it without further action by the local
14 legislative authority, but the local government entities, officers,
15 employees, or volunteers have not waived any defense of sovereign
16 immunity or increased the limits of its liability as a result of its
17 obtaining insurance coverage for tortious acts in excess of the waiver
18 provided in this section.

19 (b) The liability of the local government entities, officers,
20 employees, or volunteers is several only and is not joint.

21 (c) No attorney may charge, demand, receive, or collect, for
22 services rendered, fees in excess of twenty-five percent of any
23 judgment or settlement under this section.

24 (3) Unless the context clearly requires otherwise, for the purposes
25 of this chapter, "local governmental entity" means a county, city,
26 town, special district, municipal corporation as defined in RCW
27 39.50.010, quasi-municipal corporation, or public hospital.

28 ((+3)) (4) For the purposes of this chapter, "volunteer" is
29 defined according to RCW 51.12.035.

30 **Sec. 4.** RCW 4.22.070 and 1993 c 496 s 1 are each amended to read
31 as follows:

32 (1) In all actions involving fault of more than one entity, the
33 trier of fact shall determine the percentage of the total fault which
34 is attributable to every entity which caused the claimant's damages
35 except entities immune from liability to the claimant under Title 51
36 RCW. The sum of the percentages of the total fault attributed to at-
37 fault entities shall equal one hundred percent. The entities whose
38 fault shall be determined include the claimant or person suffering

1 personal injury or incurring property damage, defendants, third-party
2 defendants, entities released by the claimant, entities with any other
3 individual defense against the claimant, and entities immune from
4 liability to the claimant, but shall not include those entities immune
5 from liability to the claimant under Title 51 RCW. Judgment shall be
6 entered against each defendant except those who have been released by
7 the claimant or are immune from liability to the claimant or have
8 prevailed on any other individual defense against the claimant in an
9 amount which represents that party's proportionate share of the
10 claimant's total damages. The liability of each defendant shall be
11 several only and shall not be joint except:

12 (a) A party shall be responsible for the fault of another person or
13 for payment of the proportionate share of another party where both were
14 acting in concert or when a person was acting as an agent or servant of
15 the party.

16 (b) If the trier of fact determines that the claimant or party
17 suffering bodily injury or incurring property damages was not at fault,
18 the defendants against whom judgment is entered shall be jointly and
19 severally liable for the sum of their proportionate shares of the
20 ~~((claimants [claimant's]))~~ claimant's total damages, except as provided
21 in RCW 4.92.090(2) and 4.96.010(2).

22 (2) If a defendant is jointly and severally liable under one of the
23 exceptions listed in subsections (1)(a) or (1)(b) of this section, such
24 defendant's rights to contribution against another jointly and
25 severally liable defendant, and the effect of settlement by either such
26 defendant, shall be determined under RCW 4.22.040, 4.22.050, and
27 4.22.060.

28 (3)(a) Nothing in this section affects any cause of action relating
29 to hazardous wastes or substances or solid waste disposal sites.

30 (b) Nothing in this section shall affect a cause of action arising
31 from the tortious interference with contracts or business relations.

32 (c) Nothing in this section shall affect any cause of action
33 arising from the manufacture or marketing of a fungible product in a
34 generic form which contains no clearly identifiable shape, color, or
35 marking.

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