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SENATE BILL 6350

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State of Washington                      63rd Legislature                      2014 Regular Session

By Senators Roach, Padden, and Kline

Read first time 01/22/14. Referred to Committee on Law & Justice.

1            AN ACT Relating to damages for persons injured by violations of the  
2 state Constitution; and adding a new chapter to Title 7 RCW.

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

4            NEW SECTION.    **Sec. 1.**    (1) The legislature recognizes that all  
5 political power is inherent in the people, and governments derive their  
6 just powers from the consent of the governed, and are established to  
7 protect and maintain individual rights; and that a frequent recurrence  
8 to fundamental principles is essential to the security of individual  
9 right and the perpetuity of free government.

10           (2) The legislature declares that it is a fundamental principle  
11 that the state Constitution embodies public policy of the highest order  
12 and priority; that it is a compelling interest of the state of  
13 Washington to ensure that the provisions of the state Constitution are  
14 guaranteed and enforced in order to protect and maintain the liberties  
15 and individual rights of the people of the state of Washington; that  
16 the people of the state of Washington should be able to rely primarily  
17 upon the state Constitution for the protection of their liberties and  
18 individual rights; and that it is a legitimate exercise of the police  
19 power of the state of Washington to preserve the public peace, health,

1 morals, and safety of the people of the state of Washington by  
2 establishing an enforcement mechanism for redress for violations of the  
3 state Constitution.

4 NEW SECTION. **Sec. 2.** (1) Every governmental entity that, under  
5 color of a statute, ordinance, regulation, custom, or usage, subjects  
6 or causes to be subjected, a citizen, inhabitant, or domiciliary of the  
7 state of Washington to the deprivation of any rights, privileges, or  
8 immunities secured by the Constitution of the state of Washington, is  
9 liable to the person injured in an action at law, suit in equity, or  
10 other proper proceeding for the redress.

11 (2) A person deeming himself or herself injured by any act in  
12 violation of this chapter may recover all damages sustained including,  
13 but not limited to, damages or remedies made available under the Civil  
14 Rights Act of 1871 (42 U.S.C. Sec. 1983).

15 (3) It is the intent of the legislature that persons who are  
16 injured by a violation of the state Constitution are eligible for  
17 redress, that future violations of the state Constitution be deterred  
18 thereby, and that this statute be construed liberally for the  
19 accomplishment of its declared purpose in this chapter. Nothing  
20 contained in this chapter shall be construed to deny the right of a  
21 person to institute an action or pursue any civil or criminal remedy  
22 based upon an alleged violation of his or her civil rights.

23 NEW SECTION. **Sec. 3.** (1) For purposes of this chapter,  
24 "governmental entity" means any federal, state, or local government.

25 (2) For the purposes of this chapter, a governmental entity is  
26 liable for the act of an agency, instrumentality, officer, or employee  
27 done under color of a statute, ordinance, regulation, custom, or usage.

28 (3) For the purposes of this chapter, an officer, employee, or  
29 agent of a governmental entity is liable only to the extent that he or  
30 she acts under color of a statute, ordinance, regulation, custom, or  
31 usage.

32 (4) For the purposes of this chapter, "person" means a natural  
33 person, and does not include a corporation, business trust, estate,  
34 trust, partnership, association, joint venture, or other legal or  
35 commercial entity.

1        NEW SECTION.    **Sec. 4.**    In an action or proceeding to enforce a  
2 provision of this chapter, a court may not impose or levy as a remedy  
3 or otherwise a general or special tax, assessment, fee, toll, charge,  
4 or other monetary obligation on the citizens of the state of  
5 Washington.

6        NEW SECTION.    **Sec. 5.**    In an action or proceeding to enforce a  
7 provision of this chapter, the prevailing party may recover any and all  
8 attorneys' fees and costs for any act in violation of this chapter,  
9 including but not limited to expert witness fees, to the same extent  
10 recoverable under RCW 49.60.030(2).

11        NEW SECTION.    **Sec. 6.**    This act applies to causes of action arising  
12 after the effective date of this section.

13        NEW SECTION.    **Sec. 7.**    Sections 1 through 6 of this act constitute  
14 a new chapter in Title 7 RCW.

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