

HOUSE BILL REPORT

HB 2499

*As Reported By House Committee on:
Local Government*

Title: An act relating to claims against local governmental entities.

Brief Description: Changing requirements for claims against local governmental agencies.

Sponsor(s): Representatives Ludwig, Ferguson, Bray, Roland, Haugen, Grant, Riley, Zellinsky, Dellwo and Rayburn.

Brief History:

Reported by House Committee on:
Local Government, February 7, 1992, DPS.

**HOUSE COMMITTEE ON
LOCAL GOVERNMENT**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 15 members: Representatives Haugen, Chair; Cooper, Vice Chair; Ferguson, Ranking Minority Member; Mitchell, Assistant Ranking Minority Member; Bray; Edmondson; Franklin; Horn; Nealey; Nelson; Rayburn; Roland; Wood; Wynne; and Zellinsky.

Staff: Steve Lundin (786-7127).

Background:

The laws relating to lawsuits against local governments vary somewhat and, to some extent, are codified in different parts of the statutes.

At one time the statutes for various local governments included a requirement that, in addition to the normal statute of limitations to bring an action, a special claim had to be filed with the local government within 120 days of when the damages were suffered. A lawsuit by a damaged person against a local government would be dismissed if either the special notice of a claim was not filed within 120 days of when the damages occurred or the actual lawsuit was not filed within the normal statute of limitations. The state supreme court held these special claim filing statutes unconstitutional. Several of the special claim filing statutes have been amended to require the claim be filed

within the normal statute of limitations period. However, several of these statutes have not been amended to make this change.

Separate statutes for different local governments require the local governments to defend actions brought against their officers and employees for damages arising out of acts or omissions while performing their duties, and to pay any damages arising from such lawsuits.

Summary of Substitute Bill:

The statutes relating to lawsuits against local governments for damages are altered and repealed to establish a single, uniform procedure.

It is clarified that the requirement for local governments to defend their officers and employees, and pay any damages, for their actions taken while performing their duties, includes past, as well as present officers and employees.

The requirement is added for most local governments that they defend lawsuits against the actions of their past and present volunteers while performing their duties and that any damages arising from these lawsuits be paid by the local government, to the same extent that they defend the actions of their past and present officers and employees and pay damages arising from these lawsuits. A judgment creditor may not seek satisfaction of a judgment against a local government officer, employee, or volunteer for actions taken within the scope of his or her official duties, but must seek satisfaction from the local government itself.

No bond is required of any local government for bringing a lawsuit in a state court or local government court.

Various claim statutes are amended to require the claim to be filed within the applicable statute of limitations for commencing a lawsuit. An action for tortious damages against a local government may not be commenced until 60 days has elapsed after the claim was first presented to the governing body of the local government. The applicable statute of limitations is extended during this 60 day period.

Substitute Bill Compared to Original Bill: A definition of "local government entity" was added in one place. Local governments would have to represent their past, as well as present, officials, employees, and volunteers for good faith actions taken while performing their duties.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This creates a single set of statutes for lawsuits against local governments. Unconstitutional provisions are eliminated. The provisions resemble recently enacted statutes for suing the state. The purpose of bonds in lawsuits relates to appeals of a decision and are used to ensure the appellant has moneys to pay the costs of the other side if the appellant loses the appeal. Governments have assets to pay these costs. The state does not have to post bonds.

Testimony Against: Why should local governments be exempted from filing bonds?

Witnesses: (Pro) Bill Vogler, Washington State Association of Counties; Representative Curt Ludwig, prime sponsor; Jim Justin, Association of Washington Cities; (with concerns) Duke Schaub, Associated General Contractors; and Dave Rogers, Washington Public Ports Association.