

SENATE BILL REPORT

SB 5721

AS REPORTED BY COMMITTEE ON TRANSPORTATION, MARCH 4, 1991

**Brief Description:** Limiting the liability of state and local governments.

**SPONSORS:** Senators McDonald, Vognild and Patterson; by request of Department of Transportation and Department of General Administration.

**SENATE COMMITTEE ON TRANSPORTATION**

**Majority Report:** That Substitute Senate Bill No. 5721 be substituted therefor, and the substitute bill do pass.

Signed by Senators Patterson, Chairman; Nelson, Vice Chairman; Barr, Conner, Erwin, Hansen, Oke, Sellar, Thorsness, and Vognild.

**Staff:** Louise Bray Sandison (786-7322)

**Hearing Dates:** February 27, 1991; March 4, 1991

**BACKGROUND:**

The Department of General Administration issued a report in September 1990, revised in December 1990, that proposes statutory changes to limit liability of the state and local governments for personal injury or property damage related to the design of public facilities which conform to design standards at the time the facility or roadway was approved for construction.

**SUMMARY:**

The state and all of its political subdivisions are granted immunity from civil liability for damages caused by, or related to, the planning and design for construction, improvement, traffic control devices or signing of a highway, road, street, bridge or other public facility if the plan or design was prepared in substantial conformance with the engineering or design standards in effect at the time of construction.

If deficient maintenance is the principal cause of the accident and the public agency had actual notice of the defect and failed to respond in a reasonable time, the public agency may be liable.

Public facility includes state highways, city streets, county roads, state and local buildings owned by the political subdivision, bridges, off-highway and primitive roads, public use facilities, enterprise operations, infrastructures, and marine/aircraft facilities.

**EFFECT OF PROPOSED SUBSTITUTE:**

The Attorney General is required to submit a comprehensive annual report summarizing all tort cases against the state which were concluded in the previous year.

The definition of "public agency" is expanded to include independent contractors or consultants employed by the state.

Technical changes are made to correct drafting errors.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR:**

Limiting the liability of the state in these types of cases will allow the state to more efficiently utilize the tax revenues available to it.

**TESTIMONY AGAINST:**

Limitation of liability removes the incentive for improving public facilities. The public relies on the state to provide a safe environment in which to live.

**TESTIFIED:** Wendy Holden, General Administration (pro); Dennis Ingham, Department of Transportation (pro); Michael Daniels, WSACE and WSAC (pro); James S. Rogers, Washington State Trial Lawyers (con); Duke Schaub, AGC (pro); Cliff Webster, Architects and Engineers Legislative Council (pro); Stan Finkelstein, Association of Washington Cities (pro); Mike Taroif, Attorney General, Tort Claims (pro)