

ESHB 1553 - S AMD 308
By Senator Fairley

ADOPTED 04/16/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 4.96.020 and 2006 c 82 s 3 are each amended to read
4 as follows:

5 (1) The provisions of this section apply to claims for damages
6 against all local governmental entities and their officers, employees,
7 or volunteers, acting in such capacity, except that claims involving
8 injuries from health care are governed solely by the procedures set
9 forth in chapter 7.70 RCW and are exempt from this chapter.

10 (2) The governing body of each local governmental entity shall
11 appoint an agent to receive any claim for damages made under this
12 chapter. The identity of the agent and the address where he or she may
13 be reached during the normal business hours of the local governmental
14 entity are public records and shall be recorded with the auditor of the
15 county in which the entity is located. All claims for damages against
16 a local governmental entity, or against any local governmental entity's
17 officers, employees, or volunteers, acting in such capacity, shall be
18 presented to the agent within the applicable period of limitations
19 within which an action must be commenced. A claim is deemed presented
20 when the claim form is delivered in person or is received by the agent
21 by regular mail, registered mail, or certified mail, with return
22 receipt requested, to the agent or other person designated to accept
23 delivery at the agent's office. The failure of a local governmental
24 entity to comply with the requirements of this section precludes that
25 local governmental entity from raising a defense under this chapter.

26 ~~(3) ((All claims for damages arising out of tortious conduct must~~
27 ~~locate and describe the conduct and circumstances which brought about~~
28 ~~the injury or damage, describe the injury or damage, state the time and~~
29 ~~place the injury or damage occurred, state the names of all persons~~
30 ~~involved, if known, and shall contain the amount of damages claimed,~~

1 ~~together with a statement of the actual residence of the claimant at~~
2 ~~the time of presenting and filing the claim and for a period of six~~
3 ~~months immediately prior to the time the claim arose. If the claimant~~
4 ~~is incapacitated from verifying, presenting, and filing the claim in~~
5 ~~the time prescribed or if the claimant is a minor, or is a nonresident~~
6 ~~of the state absent therefrom during the time within which the claim is~~
7 ~~required to be filed, the claim may be verified, presented, and filed~~
8 ~~on behalf of the claimant by any relative, attorney, or agent~~
9 ~~representing the claimant.)~~ For claims for damages presented after the
10 effective date of this section, all claims for damages must be
11 presented on the standard tort claim form that is maintained by the
12 risk management division of the office of financial management, except
13 as allowed under (c) of this subsection. The standard tort claim form
14 must be posted on the office of financial management's web site.

15 (a) The standard tort claim form must, at a minimum, require the
16 following information:

17 (i) The claimant's name, date of birth, and contact information;

18 (ii) A description of the conduct and the circumstances that
19 brought about the injury or damage;

20 (iii) A description of the injury or damage;

21 (iv) A statement of the time and place that the injury or damage
22 occurred;

23 (v) A listing of the names of all persons involved and contact
24 information, if known;

25 (vi) A statement of the amount of damages claimed; and

26 (vii) A statement of the actual residence of the claimant at the
27 time of presenting the claim and at the time the claim arose.

28 (b) The standard tort claim form must be signed either:

29 (i) By the claimant, verifying the claim;

30 (ii) Pursuant to a written power of attorney, by the attorney in
31 fact for the claimant;

32 (iii) By an attorney admitted to practice in Washington state on
33 the claimant's behalf; or

34 (iv) By a court-approved guardian or guardian ad litem on behalf of
35 the claimant.

36 (c) Local governmental entities shall make available the standard
37 tort claim form described in this section with instructions on how the
38 form is to be presented and the name, address, and business hours of

1 the agent of the local governmental entity. If a local governmental
2 entity chooses to also make available its own tort claim form in lieu
3 of the standard tort claim form, the form:

4 (i) May require additional information beyond what is specified
5 under this section, but the local governmental entity may not deny a
6 claim because of the claimant's failure to provide that additional
7 information;

8 (ii) Must not require the claimant's social security number; and

9 (iii) Must include instructions on how the form is to be presented
10 and the name, address, and business hours of the agent of the local
11 governmental entity appointed to receive the claim.

12 (d) If any claim form provided by the local governmental entity
13 fails to require the information specified in this section, or
14 incorrectly lists the agent with whom the claim is to be filed, the
15 local governmental entity is deemed to have waived any defense related
16 to the failure to provide that specific information or to present the
17 claim to the proper designated agent.

18 (e) Presenting either the standard tort claim form or the local
19 government tort claim form satisfies the requirements of this chapter.

20 (f) The amount of damages stated on the claim form is not
21 admissible at trial.

22 (4) No action subject to the claim filing requirements of RCW
23 4.92.100 shall be commenced against any local governmental entity, or
24 against any local governmental entity's officers, employees, or
25 volunteers, acting in such capacity, for damages arising out of
26 tortious conduct until sixty calendar days have elapsed after the claim
27 has first been presented to ((and filed with)) the agent of the
28 governing body thereof. The applicable period of limitations within
29 which an action must be commenced shall be tolled during the sixty((-)
30 calendar day period. For the purposes of the applicable period of
31 limitations, an action commenced within five court days after the sixty
32 calendar day period has elapsed is deemed to have been presented on the
33 first day after the sixty calendar day period elapsed.

34 (5) With respect to the content of claims under this section and
35 all procedural requirements in this section, this section must be
36 liberally construed so that substantial compliance will be deemed
37 satisfactory.

1 **Sec. 2.** RCW 4.92.100 and 2006 c 82 s 1 are each amended to read as
2 follows:

3 (1) All claims against the state, or against the state's officers,
4 employees, or volunteers, acting in such capacity, for damages arising
5 out of tortious conduct, except for claims involving injuries from
6 health care, shall be presented to ((and filed with)) the risk
7 management division. ((All such claims shall be verified and shall
8 accurately describe the conduct and circumstances which brought about
9 the injury or damage, describe the injury or damage, state the time and
10 place the injury or damage occurred, state the names of all persons
11 involved, if known, and shall contain the amount of damages claimed,
12 together with a statement of the actual residence of the claimant at
13 the time of presenting and filing the claim and for a period of six
14 months immediately prior to the time the claim arose. If the claimant
15 is incapacitated from verifying, presenting, and filing the claim or if
16 the claimant is a minor, or is a nonresident of the state, the claim
17 may be verified, presented, and filed on behalf of the claimant by any
18 relative, attorney, or agent representing the claimant.)) Claims
19 involving injuries from health care are governed solely by the
20 procedures set forth in chapter 7.70 RCW and are exempt from this
21 chapter. A claim is deemed presented when the claim form is delivered
22 in person or by regular mail, registered mail, or certified mail, with
23 return receipt requested, to the risk management division. For claims
24 for damages presented after the effective date of this section, all
25 claims for damages must be presented on the standard tort claim form
26 that is maintained by the risk management division. The standard tort
27 claim form must be posted on the office of financial management's web
28 site.

29 (a) The standard tort claim form must, at a minimum, require the
30 following information:

- 31 (i) The claimant's name, date of birth, and contact information;
32 (ii) A description of the conduct and the circumstances that
33 brought about the injury or damage;
34 (iii) A description of the injury or damage;
35 (iv) A statement of the time and place that the injury or damage
36 occurred;
37 (v) A listing of the names of all persons involved and contact
38 information, if known;

1 (vi) A statement of the amount of damages claimed; and
2 (vii) A statement of the actual residence of the claimant at the
3 time of presenting the claim and at the time the claim arose.

4 (b) The standard tort claim form must be signed either:

5 (i) By the claimant, verifying the claim;

6 (ii) Pursuant to a written power of attorney, by the attorney in
7 fact for the claimant;

8 (iii) By an attorney admitted to practice in Washington state on
9 the claimant's behalf; or

10 (iv) By a court-approved guardian or guardian ad litem on behalf of
11 the claimant.

12 (c) The amount of damages stated on the claim form is not
13 admissible at trial.

14 (2) The state shall make available the standard tort claim form
15 described in this section with instructions on how the form is to be
16 presented and the name, address, and business hours of the risk
17 management division. The standard tort claim form must not list the
18 claimant's social security number and must not require information not
19 specified under this section.

20 (3) With respect to the content of (~~such~~) claims under this
21 section and all procedural requirements in this section, this section
22 (~~shall~~) must be liberally construed so that substantial compliance
23 will be deemed satisfactory.

24 **Sec. 3.** RCW 4.92.110 and 2006 c 82 s 2 are each amended to read as
25 follows:

26 No action subject to the claim filing requirements of RCW 4.92.100
27 shall be commenced against the state, or against any state officer,
28 employee, or volunteer, acting in such capacity, for damages arising
29 out of tortious conduct until sixty calendar days have elapsed after
30 the claim is presented to (~~and filed with~~) the risk management
31 division. The applicable period of limitations within which an action
32 must be commenced shall be tolled during the sixty(~~-~~) calendar day
33 period. For the purposes of the applicable period of limitations, an
34 action commenced within five court days after the sixty calendar day
35 period has elapsed is deemed to have been presented on the first day
36 after the sixty calendar day period elapsed."

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1 On page 1, line 2 of the title, after "entities;" strike the
2 remainder of the title and insert "and amending RCW 4.96.020, 4.92.100,
3 and 4.92.110."

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