
SECOND SUBSTITUTE SENATE BILL 6239

State of Washington

69th Legislature

2026 Regular Session

By Senate Ways & Means (originally sponsored by Senators Dhingra, Pedersen, Conway, Llias, Robinson, and C. Wilson)

READ FIRST TIME 02/09/26.

1 AN ACT Relating to arbitration for tort claims against the state
2 of Washington and its subdivisions; amending RCW 7.06.020, 4.92.090,
3 and 4.96.010; adding a new section to chapter 4.92 RCW; creating new
4 sections; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that while
7 private entrepreneurs voluntarily choose the ambit of their activity
8 and can thereby exert some control over their exposure to liability,
9 state government does not have the same flexibility. In acting for
10 the public good and in responding to public need, state government
11 must provide a broad range of services and perform a broad range of
12 functions throughout the entire state, regardless of how much
13 exposure to liability may be involved. The legislature also
14 recognizes that the state and its political subdivisions provide
15 essential public services and functions and that unlimited liability
16 could disrupt or make prohibitively expensive the provision of such
17 essential public services and functions.

18 (2) The legislature finds that the right to sue the government is
19 not considered a privilege or immunity requiring heightened scrutiny
20 analysis by the courts. The right to pursue a government tort
21 liability claim in court is not a fundamental right of state

1 citizenship. Article II, section 26 of our state Constitution gives
2 the legislature the sole authority to decide in what manner, and in
3 what courts, suits may be brought against the state, rather than it
4 being a fundamental right provided by the state Constitution itself,
5 so long as it conforms to the equal protection guarantees of the
6 state and federal constitutions. A distinction based on the age of
7 claims serves a legitimate state interest in that it rationally
8 relates to the purpose of the statute, to address old cases and
9 provide all claimants justice by encouraging negotiation and fair
10 settlement, and providing a fair but streamlined resolution that is
11 less expensive and more efficient for all parties involved.

12 (3) The legislature further finds that its power to control and
13 regulate the right of suit against the state is plenary. The state
14 may grant the right or refuse it as it chooses and when granted may
15 annex such conditions thereto as it deems wise. Further, the state
16 supreme court has consistently acknowledged this constitutional duty
17 includes the power to establish conditions precedent before suit can
18 be brought against the state, including the placement of reasonable
19 procedural burdens that may be placed on tort claimants as long as
20 such burdens are not substantial and do not constitute a real
21 impediment to relief. The legislature therefore finds it necessary to
22 protect the public treasury from increasing liability while providing
23 a structured, fair process through arbitration for persons who seek
24 compensation for injuries caused by government.

25 **Sec. 2.** RCW 7.06.020 and 2018 c 36 s 2 are each amended to read
26 as follows:

27 (1) (~~All~~) Except as provided in subsection (3) of this section,
28 all civil actions, except for appeals from municipal or district
29 courts, which are at issue in the superior court in counties which
30 have authorized arbitration, where the sole relief sought is a money
31 judgment, and where no party asserts a claim in excess of (~~fifteen~~
32 ~~thousand dollars~~) \$15,000, or if approved by the superior court of a
33 county by two-thirds or greater vote of the judges thereof, up to
34 (~~one hundred thousand dollars~~) \$100,000, exclusive of interest and
35 costs, are subject to civil arbitration.

36 (2) If approved by majority vote of the superior court judges of
37 a county which has authorized arbitration, all civil actions which
38 are at issue in the superior court in which the sole relief sought is
39 the establishment, termination, or modification of maintenance or

1 child support payments are subject to mandatory arbitration. The
2 arbitrability of any such action shall not be affected by the amount
3 or number of payments involved.

4 (3) (a) All tort claims against the state or against the state's
5 officers, employees, or volunteers pursuant to RCW 4.92.100, or local
6 governmental entities or their officers, employees, or volunteers
7 pursuant to RCW 4.96.010 are subject to civil arbitration for any
8 dollar amount prior to being scheduled for trial where:

9 (i) The claimant was an adult when the act or pattern of acts
10 alleged to have caused the injury or condition occurred, and 10 or
11 more years have passed since that act or pattern of acts; or

12 (ii) The claimant was a minor when the act or pattern of acts
13 alleged to have caused the injury or condition occurred, and 10 or
14 more years have passed since the claimant became an adult.

15 (b) Except as provided in (a) of this subsection, all tort claims
16 against the state or against the state's officers, employees, or
17 volunteers pursuant to RCW 4.92.100, or local governmental entities
18 or their officers, employees, or volunteers pursuant to RCW 4.96.010
19 may be subject to arbitration for any dollar amount prior to being
20 scheduled for trial upon agreement of the parties.

21 (c) An arbitrator must receive training on being victim-centered
22 and trauma-informed prior to arbitrating any claim under this
23 subsection (3).

24 **Sec. 3.** RCW 4.92.090 and 1963 c 159 s 2 are each amended to read
25 as follows:

26 ((The)) Except as provided in RCW 7.06.020(3), the state of
27 Washington, whether acting in its governmental or proprietary
28 capacity, shall be liable for damages arising out of its tortious
29 conduct to the same extent as if it were a private person or
30 corporation.

31 **Sec. 4.** RCW 4.96.010 and 2011 c 258 s 10 are each amended to
32 read as follows:

33 (1) ((All)) Except as provided in RCW 7.06.020(3), all local
34 governmental entities, whether acting in a governmental or
35 proprietary capacity, shall be liable for damages arising out of
36 their tortious conduct, or the tortious conduct of their past or
37 present officers, employees, or volunteers while performing or in
38 good faith purporting to perform their official duties, to the same

1 extent as if they were a private person or corporation. Filing a
2 claim for damages within the time allowed by law shall be a condition
3 precedent to the commencement of any action claiming damages. The
4 laws specifying the content for such claims shall be liberally
5 construed so that substantial compliance therewith will be deemed
6 satisfactory.

7 (2) Unless the context clearly requires otherwise, for the
8 purposes of this chapter, "local governmental entity" means a county,
9 city, town, special district, municipal corporation as defined in RCW
10 39.50.010, quasi-municipal corporation, any joint municipal utility
11 services authority, any entity created by public agencies under RCW
12 39.34.030, or public hospital.

13 (3) For the purposes of this chapter, "volunteer" is defined
14 according to RCW 51.12.035.

15 NEW SECTION. **Sec. 5.** (1) The joint legislative audit and review
16 committee must conduct a review of the arbitration requirement
17 created under section 2, chapter . . ., Laws of 2026 (section 2 of
18 this act). The review must include:

19 (a) The number of lawsuits arbitrated pursuant to section 2 of
20 this act;

21 (b) The type of claims arbitrated, including but not limited to
22 whether the injury is to a minor or an adult;

23 (c) The number of lawsuits resolved at arbitration, and of those
24 resolved at arbitration:

25 (i) The median length of time from the date the lawsuit is filed
26 to final resolution;

27 (ii) The median arbitration award and the average median attorney
28 fee and cost award under chapter 49.60 RCW or other law;

29 (iii) The median total dollars spent by the reporting agency per
30 lawsuit, including attorney fees and costs;

31 (iv) Total dollars spent by the reporting agency, including
32 attorney fees, on all lawsuits resolved at arbitration; and

33 (v) The number of lawsuits resolved by settlement;

34 (d) The number of arbitration awards that are appealed, and of
35 those that are appealed:

36 (i) The median length of time from the date the lawsuit was filed
37 to final resolution;

38 (ii) The number of lawsuits resolved before a trial judgment;

1 (iii) The median arbitration award and the median attorney fee
2 and cost awarded under chapter 49.60 RCW or other law by the
3 arbitrator;

4 (iv) The cases that are appealed from arbitration to superior
5 court as a percentage of the total arbitration cases;

6 (v) The number of requests for de novo review that were filed by
7 plaintiff compared to the reporting agency;

8 (vi) The number of lawsuits tried to judgment, including the
9 median judgment amount and attorney fees and cost award under chapter
10 49.60 RCW or other law;

11 (vii) The median total dollars spent by the reporting agency per
12 lawsuit, including attorney fees;

13 (viii) Total dollars spent by the reporting agency, including
14 attorney fees, on all lawsuits that were not resolved at arbitration;
15 and

16 (ix) The number of cases, as a percentage of the total, where the
17 party appealing the arbitration award improved their award at trial
18 judgment; and

19 (e) The extent to which mandatory arbitration affects the
20 timeliness, cost, and resolution of tort claims compared to
21 litigation, including impacts on governmental resources. The
22 comparison should include but not be limited to judgments or
23 settlements prior to the effective date of this section.

24 (2) The joint legislative audit and review committee must also
25 conduct a review on the effectiveness of the following:

26 (a) How the office of risk management and local government
27 entities conduct an investigation of a presented claim during the 60
28 days prior to the filing of a lawsuit; and

29 (b) How many special assistant attorneys general are appointed
30 under contract by the attorney general's office to assist in tort
31 liability cases, for five years prior to the effective date of this
32 section, and for five years after the effective date of this section,
33 and including:

34 (i) The costs and fees of the special assistant attorneys general
35 for each case; and

36 (ii) How the costs and fees of the special assistant attorneys
37 general compare to the costs of assistant attorneys general who are
38 employees of the attorney general's office assigned to tort liability
39 cases.

1 (3) (a) For tort claims against the state or against the state's
2 officers, employees, or volunteers under RCW 4.92.100, the office of
3 risk management shall provide the joint legislative audit and review
4 committee with the information necessary to complete the review
5 described in this section.

6 (b) For tort claims against local governmental entities under RCW
7 4.96.010 and their officers, employees, or volunteers, those entities
8 shall provide information necessary to complete the review in a
9 standardized format and at intervals specified by the joint
10 legislative audit and review committee.

11 (4) The joint legislative audit and review committee shall report
12 its findings and any recommendations to the appropriate committees of
13 the legislature by December 31, 2032.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 4.92 RCW
15 to read as follows:

16 Whenever a payment of \$5,000,000 or more is made from the
17 liability account under RCW 4.92.130 for a settlement or judgment for
18 the tortious conduct of the state's officers, employees, or
19 volunteers, the appropriate policy and fiscal committees of the
20 senate and house of representatives shall, within 12 months of the
21 payment, conduct a joint hearing for the purposes of:

22 (1) Receiving a report from the attorney general, the office of
23 risk management, and the agency on which behalf the payment was made.
24 The report shall describe the factual events and legal context that
25 resulted in the payment; and

26 (2) Considering potential modifications to state practices and
27 policies to prevent or reduce future state liability for tortious
28 conduct.

29 The information presented at the hearing shall be consistent with
30 the protections afforded by the attorney/client privilege and the
31 confidentiality of attorney work product.

32 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of
34 the state government and its existing public institutions, and takes
35 effect immediately.

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