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**SUBSTITUTE SENATE BILL 5721**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by Senators McDonald, Vognild and Patterson; by request of Department of Transportation and Department of General Administration).

Read first time March 6, 1991.

1 AN ACT Relating to state and local government; adding new sections  
2 to chapter 4.24 RCW; and adding a new section to chapter 43.10 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature intends to reduce the  
5 escalating cost of civil tort claims while still ensuring that the  
6 public interest and safety are being served.

7 The legislature specifically recognizes that state and local  
8 governments cannot economically and feasibly update all highways,  
9 roads, streets, bridges, and other public facilities to meet current  
10 design and signage requirements. Sections 2 and 3 of this act will  
11 enable state and local governments to meet the transportation and  
12 occupancy needs of our public facilities in a systematic and cost-  
13 effective manner without facing the threat and expense of costly  
14 litigation. However, it will not relieve government agencies, from

1 meeting their public obligations to maintain safe roadways and  
2 facilities, nor to respond to public notice of unsafe conditions.

3 NEW SECTION. **Sec. 2.** No public agency or employee may be civilly  
4 liable for damages caused by, or related to, the planning and design  
5 for construction, improvement, traffic control devices, or signing of  
6 a highway, road, street, bridge, or other public facility, if the plan  
7 or design is prepared in substantial conformance with the engineering  
8 or design standards in effect at the time and approved for construction  
9 by the agency responsible for the facility. This section does not  
10 apply to damages caused by a defect in the highway, road, street,  
11 bridge, or other public facility if (1) deficient maintenance is the  
12 principal cause of the accident and (2) the public agency had actual  
13 notice of the defect and failed to respond within a reasonable time  
14 period.

15 NEW SECTION. **Sec. 3.** The definitions in this section shall apply  
16 throughout this chapter.

17 (1) "Public agency" means all public offices and agencies of the  
18 state and political subdivisions, including directors, officers,  
19 employees, agents, independent contractors or consultants, and  
20 volunteers acting in an official capacity.

21 (2) "Public facility" includes state highways, city and county  
22 streets and roads, buildings owned by the state or its political  
23 subdivisions, bridges, off-highway and primitive roads, public use  
24 facilities, enterprise operations, infrastructures, and marine/aircraft  
25 facilities.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.10 RCW  
27 to read as follows:

1       The attorney general shall by February 1st of each year, provide to  
2 the legislature, the governor, and the office of risk management a  
3 comprehensive summary of all cases involving tort claims against the  
4 state of Washington which were concluded and closed in the previous  
5 calendar year. The report shall include for each case closed:

6       (1) A summary of the factual background of the case;

7       (2) Identification of the attorneys representing the state and the  
8 opposing parties;

9       (3) A synopsis of the legal theories asserted and the defenses  
10 presented;

11       (4) Whether the case was tried, settled, or dismissed, and in whose  
12 favor;

13       (5) The amount of any settlement or verdict reached, and the terms  
14 for payment;

15       (6) A summary of all settlement offers made by the parties where a  
16 verdict was returned;

17       (7) The approximate number of attorney hours expended by the state  
18 on the case, together with the corresponding dollar amount billed  
19 therefore; and

20       (8) Such other matters relating to the case as the attorney general  
21 deems relevant or appropriate, especially including any comments or  
22 recommendations for changes in statute law or agency practice that  
23 might effectively reduce the exposure of the state to such tort claims.

24       NEW SECTION.   **Sec. 5.**   Sections 1 through 3 of this act are each  
25 added to chapter 4.24 RCW.