
SENATE BILL 5543

State of Washington 58th Legislature 2003 Regular Session

By Senators Brandland, Hale and Schmidt

Read first time 01/29/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to the tortious conduct of the state and its
2 municipalities and liability for its governmental functions; and
3 amending RCW 4.92.090 and 4.96.010.

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

5 **Sec. 1.** RCW 4.92.090 and 1963 c 159 s 2 are each amended to read
6 as follows:

7 The state of Washington, (~~whether~~) while acting in its
8 (~~governmental or~~) proprietary capacity, shall be liable for damages
9 arising out of its tortious conduct to the same extent as if it were a
10 private person or corporation. While acting in its governmental
11 capacity, the state is liable only to the extent that the actions or
12 omissions of its officers, employees, or agents constitute gross
13 negligence. For purposes of this section, "gross negligence" means the
14 failure to exercise slight care. "Governmental capacity" includes, but
15 is not limited to, the supervision of offenders, protection of
16 vulnerable citizens, fire fighting, police activities, and highway
17 design and construction.

1 **Sec. 2.** RCW 4.96.010 and 2001 c 119 s 1 are each amended to read
2 as follows:

3 (1) All local governmental entities, (~~whether~~) acting in a
4 (~~governmental or~~) proprietary capacity, shall be liable for damages
5 arising out of their tortious conduct, or the tortious conduct of their
6 past or present officers, employees, or volunteers while performing or
7 in good faith purporting to perform their official duties, to the same
8 extent as if they were a private person or corporation. While acting
9 in its governmental capacity, local governmental entities are liable
10 only to the extent that the actions or omissions of its officers,
11 employees, or agents constitute gross negligence. "Governmental
12 capacity" includes, but is not limited to, the supervision of
13 offenders, protection of vulnerable citizens, fire fighting, police
14 activities, and highway design and construction. Filing a claim for
15 damages within the time allowed by law shall be a condition precedent
16 to the commencement of any action claiming damages. The laws
17 specifying the content for such claims shall be liberally construed so
18 that substantial compliance therewith will be deemed satisfactory.

19 (2) Unless the context clearly requires otherwise, for the purposes
20 of this chapter, "local governmental entity" means a county, city,
21 town, special district, municipal corporation as defined in RCW
22 39.50.010, quasi-municipal corporation, or public hospital.

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

25 (4) For purposes of this chapter, "gross negligence" means the
26 failure to exercise slight care.

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