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ENGROSSED SUBSTITUTE HOUSE BILL 1553

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State of Washington

61st Legislature

2009 Regular Session

By House Judiciary (originally sponsored by Representatives Takko, Goodman, Williams, Hurst, Pedersen, and Campbell)

READ FIRST TIME 02/17/09.

1 AN ACT Relating to claims for damages against the state and local  
2 governmental entities; and amending RCW 4.96.020, 4.92.100, and  
3 4.92.110.

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

5 **Sec. 1.** RCW 4.96.020 and 2006 c 82 s 3 are each amended to read as  
6 follows:

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

12 (2) The governing body of each local governmental entity shall  
13 appoint an agent to receive any claim for damages made under this  
14 chapter. The identity of the agent and the address where he or she may  
15 be reached during the normal business hours of the local governmental  
16 entity are public records and shall be recorded with the auditor of the  
17 county in which the entity is located. All claims for damages against  
18 a local governmental entity, or against any local governmental entity's  
19 officers, employees, or volunteers, acting in such capacity, shall be

1 presented to the agent within the applicable period of limitations  
2 within which an action must be commenced. Presentation is accomplished  
3 by delivery to the agent or other person authorized to accept delivery  
4 at the agent's office, or by registered mail, or by certified mail,  
5 return receipt requested. The failure of a local governmental entity  
6 to comply with the requirements of this section precludes that local  
7 governmental entity from raising a defense under this chapter.

8 ~~(3) ((All claims for damages arising out of tortious conduct must~~  
9 ~~locate and describe the conduct and circumstances which brought about~~  
10 ~~the injury or damage, describe the injury or damage, state the time and~~  
11 ~~place the injury or damage occurred, state the names of all persons~~  
12 ~~involved, if known, and shall contain the amount of damages claimed,~~  
13 ~~together with a statement of the actual residence of the claimant at~~  
14 ~~the time of presenting and filing the claim and for a period of six~~  
15 ~~months immediately prior to the time the claim arose. If the claimant~~  
16 ~~is incapacitated from verifying, presenting, and filing the claim in~~  
17 ~~the time prescribed or if the claimant is a minor, or is a nonresident~~  
18 ~~of the state absent therefrom during the time within which the claim is~~  
19 ~~required to be filed, the claim may be verified, presented, and filed~~  
20 ~~on behalf of the claimant by any relative, attorney, or agent~~  
21 ~~representing the claimant.))~~ All claims for damages must be presented  
22 on the standard tort claim form, maintained by the risk management  
23 division of the office of financial management and on its web site, and  
24 must: Describe the conduct and the circumstances that brought about  
25 the injury or damage; describe the injury or damage; state the time and  
26 place that the injury or damage occurred; state the names of all  
27 persons involved, if known; and contain the amount of damages claimed,  
28 together with a statement of the actual residence of the claimant at  
29 the time of presenting the claim and at the time the claim arose. The  
30 claim must be signed: (a) By the party making the claim, who must also  
31 verify the claim; (b) pursuant to a written power of attorney by the  
32 attorney in fact; or (c) by an attorney admitted to practice in  
33 Washington state on the claimant's behalf. Local governmental entities  
34 shall make available the standard tort claim form with instructions on  
35 how the form is to be presented, as well as the name, address, and  
36 business hours of the agent of the local governmental entity. The  
37 claim form must not list the claimant's social security number and must  
38 not require information not specified under this section. If the claim

1 form provided by the local governmental entity fails to seek the  
2 information specified in this section or incorrectly lists the agent to  
3 whom the claim is to be filed, the local governmental entity is deemed  
4 to have waived any defense related to the failure to provide that  
5 specific information or to file with the proper designated agent. The  
6 amount of damages stated on the claim form is not admissible at trial.

7 (4) No action shall be commenced against any local governmental  
8 entity, or against any local governmental entity's officers, employees,  
9 or volunteers, acting in such capacity, for damages arising out of  
10 tortious conduct until sixty calendar days have elapsed after the claim  
11 has first been presented to ~~((and-filed-with))~~ the governing body  
12 thereof. The applicable period of limitations within which an action  
13 must be commenced shall be tolled during the sixty~~(-)~~ calendar day  
14 period. An action commenced within five business days after the sixty  
15 calendar day period has elapsed is deemed timely.

16 (5) With respect to the content of claims under this section and  
17 all procedural requirements in this section, this section must be  
18 liberally construed so that substantial compliance will be deemed  
19 satisfactory.

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

22 (1) All claims against the state, or against the state's officers,  
23 employees, or volunteers, acting in such capacity, for damages arising  
24 out of tortious conduct, except for claims involving injuries from  
25 health care, shall be presented to ~~((and-filed-with))~~ the risk  
26 management division. ~~((All such claims shall be verified and shall~~  
27 accurately 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,  
31 together with a statement of the actual residence of the claimant at  
32 the time of presenting and filing the claim and for a period of six  
33 months immediately prior to the time the claim arose. If the claimant  
34 is incapacitated from verifying, presenting, and filing the claim or if  
35 the claimant is a minor, or is a nonresident of the state, the claim  
36 may be verified, presented, and filed on behalf of the claimant by any  
37 relative, attorney, or agent representing the claimant.)) Claims

1 involving injuries from health care are governed solely by the  
2 procedures set forth in chapter 7.70 RCW, but a copy of the claim must  
3 also be sent to the state risk management division. Presentation is  
4 accomplished by service upon the agent by any person competent to serve  
5 a summons or by registered mail. All claims for damages must be  
6 presented on the standard tort claim form, maintained by the risk  
7 management division and on its web site, and must: Describe the  
8 conduct and the circumstances that brought about the injury or damage;  
9 describe the injury or damage; state the time and place that the injury  
10 or damage occurred; state the names of all persons involved, if known;  
11 and contain the amount of damages claimed, together with a statement of  
12 the actual residence of the claimant at the time of presenting the  
13 claim and at the time the claim arose. The claim must be signed: (a)  
14 By the party making the claim, who must also verify the claim; (b)  
15 pursuant to a written power of attorney by the attorney in fact; or (c)  
16 by an attorney admitted to practice in Washington state on the  
17 claimant's behalf. The amount of damages stated on the claim form is  
18 not admissible at trial.

19 (2) The state shall make available the standard tort claim form  
20 with instructions on how the form is to be presented, as well as the  
21 name, address, and business hours of the risk management division. The  
22 claim form must not list the claimant's social security number and must  
23 not require information not specified under this section.

24 (3) With respect to the content of ((such)) claims under this  
25 section and all procedural requirements in this section, this section  
26 ((shall)) must be liberally construed so that substantial compliance  
27 will be deemed satisfactory.

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

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

1 calendar day period. An action commenced within five business days  
2 after the sixty calendar day period has elapsed is deemed timely.

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