
HOUSE BILL 1553

State of Washington 61st Legislature 2009 Regular Session

By Representatives Takko, Goodman, Williams, Hurst, Pedersen, and Campbell

Read first time 01/23/09. Referred to Committee on Judiciary.

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.))~~ All claims for
16 damages must be presented on the standard tort claim form, maintained
17 by the risk management division of the office of financial management
18 and on its web site, and must: Describe the conduct and the
19 circumstances that brought about the injury or damage; describe the
20 injury or damage; state the time and place that the injury or damage
21 occurred; state the names of all persons involved, if known; and
22 contain the amount of damages claimed, together with a statement of the
23 actual residence of the claimant at the time of presenting the claim
24 and at the time the claim arose. The claim must be signed and verified
25 (a) by the party making the claim, (b) pursuant to a written power of
26 attorney by the attorney in fact, or (c) by an attorney admitted to
27 practice in Washington state on the claimant's behalf. If the claimant
28 is incapacitated from verifying(~~(7)~~) and presenting(~~(7 and filing)~~)
29 the claim in the time prescribed or if the claimant is a minor, or is a
30 nonresident of the state absent therefrom during the time within which
31 the claim is required to be (~~(filed)~~) presented,
32 the claim may be verified(~~(7)~~) and presented(~~(7 and filed)~~)
33 on behalf of the claimant by any relative, attorney, or agent representing the claimant. Local
34 governmental entities shall make available the standard tort claim form
35 with instructions on how the form is to be presented, as well as the
36 name, address, and business hours of the agent of the local
37 governmental entity. The claim form must not list the claimant's
38 social security number or date of birth and must not require

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

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

17 (5) With respect to the content of claims under this section and
18 all procedural requirements in this chapter, this section must be
19 liberally construed so that substantial compliance will be deemed
20 satisfactory. A claim must not be dismissed for noncompliance absent
21 bad faith by the claimant and actual prejudice to the local government
22 entity, or its officers, employees, or volunteers acting in such
23 capacity.

24 (6) Making a written, good faith request for mediation of a claim
25 before filing a cause of action under this chapter tolls the applicable
26 statute of limitations for one year.

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

29 (1) All claims against the state, or against the state's officers,
30 employees, or volunteers, acting in such capacity, for damages arising
31 out of tortious conduct, except for claims involving injuries from
32 health care that are governed solely by the procedures set forth in
33 chapter 7.70 RCW, shall be presented to ~~((and filed with))~~ the risk
34 management division. ~~((All such claims shall be verified and shall~~
35 accurately describe the conduct and circumstances which brought about
36 the injury or damage, describe the injury or damage, state the time and
37 place the injury or damage occurred, state the names of all persons

1 involved, if known, and shall contain the amount of damages claimed,
2 together with a statement of the actual residence of the claimant at
3 the time of presenting and filing the claim and for a period of six
4 months immediately prior to the time the claim arose.) Presentation
5 is accomplished by service upon the agent by any person competent to
6 serve a summons or by registered mail. All claims for damages must be
7 presented on the standard tort claim form, maintained by the risk
8 management division and on its web site, and must: Describe the
9 conduct and the circumstances that brought about the injury or damage;
10 describe the injury or damage; state the time and place that the injury
11 or damage occurred; state the names of all persons involved, if known;
12 and contain the amount of damages claimed, together with a statement of
13 the actual residence of the claimant at the time of presenting the
14 claim and at the time the claim arose. The claim must be signed and
15 verified by (a) the party making the claim, (b) pursuant to a written
16 power of attorney by the attorney in fact, or (c) by an attorney
17 admitted to practice in Washington state on the claimant's behalf. If
18 the claimant is incapacitated from verifying((~~τ~~)) and presenting((~~τ~~ and
19 filing)) the claim or if the claimant is a minor, or is a nonresident
20 of the state, the claim may be verified((~~τ~~)) and presented((~~τ~~ and
21 filed)) on behalf of the claimant by any relative, attorney, or agent
22 representing the claimant. The amount of damages stated on the claim
23 form is not admissible at trial.

24 (2) The state shall make available the standard tort claim form
25 with instructions on how the form is to be presented, as well as the
26 name, address, and business hours of the risk management division. The
27 claim form must not list the claimant's social security number or date
28 of birth and must not require information not specified under this
29 section.

30 (3) With respect to the content of ((~~such~~)) claims under this
31 section and all procedural requirements in this chapter, this section
32 ((~~shall~~)) must be liberally construed so that substantial compliance
33 will be deemed satisfactory. A claim must not be dismissed for
34 noncompliance absent bad faith by the claimant and actual prejudice to
35 the state.

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

1 (1) No action subject to the claim presentation and filing
2 requirements of RCW 4.92.100 shall be commenced against the state, or
3 against any state officer, employee, or volunteer, acting in such
4 capacity, for damages arising out of tortious conduct until sixty
5 calendar days have elapsed after the claim is presented to (~~and filed~~
6 ~~with~~) the risk management division. The applicable period of
7 limitations within which an action must be commenced shall be tolled
8 during the sixty (-) calendar day period. An action commenced within
9 five business days after the sixty calendar day period has elapsed is
10 deemed timely.

11 (2) Making a written, good faith request for mediation of a claim
12 before filing a cause of action under this chapter tolls the applicable
13 statute of limitations for one year.

--- END ---