

ESHB 1341 - S AMD TO WM COMM AMD (S-2538.2/13) **279**
By Senators Hargrove, Padden

ADOPTED 04/15/2013

1 On page 10, after line 5 of the amendment, insert the following:

2 "Sec. 13. RCW 4.92.130 and 2011 1st sp.s. c 43 s 513 are each
3 amended to read as follows:

4 A liability account in the custody of the treasurer is hereby
5 created as a nonappropriated account to be used solely and exclusively
6 for the payment of liability settlements and judgments against the
7 state under 42 U.S.C. Sec. 1981 et seq. or for the tortious conduct of
8 its officers, employees, and volunteers and all related legal defense
9 costs.

10 (1) The purpose of the liability account is to: (a) Expeditiously
11 pay legal liabilities and defense costs of the state resulting from
12 tortious conduct; (b) promote risk control through a cost allocation
13 system which recognizes agency loss experience, levels of self-
14 retention, and levels of risk exposure, including the payment of
15 compensation awarded by a court under section 6 of this act; and (c)
16 establish an actuarially sound system to pay incurred losses, within
17 defined limits.

18 (2) The liability account shall be used to pay claims for injury
19 and property damages and legal defense costs exclusive of agency-
20 retained expenses otherwise budgeted.

21 (3) No money shall be paid from the liability account, except for
22 defense costs, unless all proceeds available to the claimant from any
23 valid and collectible liability insurance shall have been exhausted and
24 unless:

25 (a) The claim shall have been reduced to final judgment in a court
26 of competent jurisdiction; or

27 (b) The claim has been approved for payment.

28 (4) The liability account shall be financed through annual premiums
29 assessed to state agencies, based on sound actuarial principles, and

1 shall be for liability coverage in excess of agency-budgeted self-
2 retention levels.

3 (5) Annual premium levels shall be determined by the risk manager.
4 An actuarial study shall be conducted to assist in determining the
5 appropriate level of funding.

6 (6) Disbursements for claims from the liability account shall be
7 made to the claimant, or to the clerk of the court for judgments, upon
8 written request to the state treasurer from the risk manager.

9 (7) The director may direct agencies to transfer moneys from other
10 funds and accounts to the liability account if premiums are delinquent.

11 (8) The liability account shall not exceed fifty percent of the
12 actuarial value of the outstanding liability as determined annually by
13 the office of risk management. If the account exceeds the maximum
14 amount specified in this section, premiums may be adjusted by the
15 office of risk management in order to maintain the account balance at
16 the maximum limits. If, after adjustment of premiums, the account
17 balance remains above the limits specified, the excess amount shall be
18 prorated back to the appropriate funds.

19 (9) The payment of compensation for wrongful conviction awarded by
20 a court under section 6 of this act does not constitute a finding that
21 the wrongful conviction resulted from tortious conduct by the officers
22 or employees of the state or the political subdivisions, municipal
23 corporations, and quasi-municipal corporations of the state."

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24 On page 10, line 13 of the title amendment, after "insert" insert
25 "amending RCW 4.92.130;"

EFFECT: Clarifies that payment of compensation awarded by a court

for wrongful conviction is a risk control measure and an allowable use of funds in the liability account. Specifies that payment of a court-ordered compensation award does not constitute a finding that the wrongful conviction resulted from tortious conduct by the state or its municipalities and political subdivisions.

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