

SENATE BILL REPORT

SB 6274

As Reported by Senate Committee On:
Ways & Means, January 30, 2014

Title: An act relating to providing oversight of state agency tortious conduct through legislative hearings.

Brief Description: Providing oversight of state agency tortious conduct through legislative hearings.

Sponsors: Senators Hill, Becker, Mullet, Honeyford, Bailey, Angel, Braun and Tom.

Brief History:

Committee Activity: Ways & Means: 1/28/14, 1/30/14 [DPS].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6274 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Assistant Ranking Member on the Operating Budget; Bailey, Becker, Billig, Braun, Conway, Dammeier, Fraser, Hasegawa, Hatfield, Hewitt, Kohl-Welles, Padden, Parlette, Rivers, Schoesler and Tom.

Staff: Steve Jones (786-7440)

Background: A tort is a civil legal action to recover damages for personal injuries or property damage resulting from a wrongful, intentional, or negligent act. At common law, governments are immune from all lawsuits. Article II, section 26 of the state Constitution allows the Legislature to waive its immunity and specify by statute in what manner, and in what courts, suit may be brought against the state and its officers and employees. Sovereign immunity was waived by Washington by statute in 1961; under RCW 4.92.090, the state of Washington is liable for damages arising out of its tortious conduct to the same extent as if it were a private person or corporation. Tort judgments and settlements against the state are paid from the nonappropriated Liability Account that is funded by self-insurance premiums assessed against state agencies. The state also purchases an insurance policy that provides some excess insurance coverage for state agencies. The Liability Account is administered by the Office of Risk Management in the Department of Enterprise Services.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Recommended Substitute): If a payment is made from the Liability Account of a settlement or judgment of \$1 million or more, the appropriate policy and fiscal committees of the Senate and House of Representatives must conduct a joint hearing for the purpose of receiving a report from the Attorney General, the Office of Risk Management, and the agency on which behalf the payment was made. The committees must consider potential modifications to state practices and policies to reduce future state liability for tortious conduct. The information presented at the hearing must be consistent with the protections afforded by the attorney/client privilege and the confidentiality of attorney work product.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute): The bill is clarified to prevent confidential information from being disclosed in the legislative hearing.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill provides increased transparency and legislative oversight as the state is experiencing significantly higher tort settlements and judgments than most other states. For the state and many local governments, tort liability is one of the fastest growing budget areas. These hearings would make the Legislature aware of the costs while promoting better loss-prevention and risk-management practices. Good risk management is always a good idea, and greater legislative involvement is positive and constructive. These hearings could work in tandem with the Loss Prevention Review Teams established under current law. While some information in tort cases is confidential, much of the information can be shared in a public hearing.

OTHER: In discussing the pros and cons of a tort settlement, it is important to preserve the confidentiality of attorney work product and the attorney/client privilege. This can be best done in an executive session of the committee.

Persons Testifying: PRO: Senator Hill, prime sponsor; Larry Shannon, WA Assn. for Justice; Cliff Webster, WA Liability Reform Coalition.

OTHER: Michael Lynch, Attorney General's Office.