
SUBSTITUTE HOUSE BILL 2499

State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Local Government (originally sponsored by Representatives Ludwig, Ferguson, Bray, Roland, Haugen, Grant, Riley, Zellinsky, Dellwo and Rayburn)

Read first time 02/07/92.

1 AN ACT Relating to claims against local governmental entities;
2 amending RCW 4.96.010, 4.96.020, 36.16.134, 6.17.080, 35.31.020,
3 35.31.040, 35A.31.030, 36.45.010, 54.16.110, and 87.03.440; adding new
4 sections to chapter 4.96 RCW; creating a new section; recodifying RCW
5 36.16.134; and repealing RCW 35.31.010, 35.31.030, 36.45.020,
6 36.45.030, and 53.34.210.

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

8 NEW SECTION. **Sec. 1.** This act is designed to provide a
9 single, uniform procedure for bringing a claim against a local
10 governmental entity. The existing procedures, contained in chapter
11 36.45 RCW, counties, chapter 35.31 RCW, cities and towns, chapter
12 35A.31 RCW, optional municipal code, and chapter 4.96 RCW, other
13 political subdivisions, municipal corporations, and quasi-municipal
14 corporations, are revised and consolidated into chapter 4.96 RCW.

1 **Sec. 2.** RCW 4.96.010 and 1967 c 164 s 1 are each amended to read
2 as follows:

3 (1) All (~~political subdivisions, municipal corporations, and quasi~~
4 ~~municipal corporations of the state~~) local governmental entities,
5 whether acting in a governmental or proprietary capacity, shall be
6 liable for damages arising out of their tortious conduct, or the
7 tortious conduct of their past or present officers, (~~agents or~~),
8 employees, or volunteers while performing or in good faith purporting
9 to perform their official duties, to the same extent as if they were a
10 private person or corporation(~~(: PROVIDED, That the)~~). ~~Filing a claim~~
11 ~~within the time allowed by law ((of any claim required))~~ shall be a
12 condition precedent to the maintaining of any action. The laws
13 specifying the content for such claims shall be liberally construed so
14 that substantial compliance therewith will be deemed satisfactory.

15 (2) Unless the context clearly requires otherwise, for the purposes
16 of this chapter, "local governmental entity" means a county, city,
17 town, special district, municipal corporation, or quasi-municipal
18 corporation.

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

21 **Sec. 3.** RCW 4.96.020 and 1967 c 164 s 4 are each amended to read
22 as follows:

23 (1) (~~Chapter 35.31 RCW shall apply to claims against cities and~~
24 ~~towns, and chapter 36.45 RCW shall apply to claims against counties.~~

25 (2)) The provisions of this (~~subsection shall not~~) section
26 apply to claims against (~~cities and towns or counties but shall apply~~
27 ~~to claims against all other political subdivisions, municipal~~
28 ~~corporations, and quasi municipal corporations~~) all local governmental
29 entities.

1 (2) All claims for damages against any such ((entities)) entity for
2 damages arising out of tortious conduct shall be presented to and filed
3 with the governing body thereof within ~~((one hundred twenty days from~~
4 ~~the date that the claim arose))~~ the applicable period of limitations
5 within which an action must be commenced.

6 (3) All such claims shall be verified and shall accurately locate
7 and describe the conduct and circumstances which brought about the
8 injury or damage, describe the injury or damage, state the time and
9 place the injury or damage occurred, state the names of all persons
10 involved, if known, and shall contain the amount of damages claimed,
11 together with a statement of the actual residence of the claimant at
12 the time of presenting and filing the claim and for a period of six
13 months immediately prior to the time the claim arose. If the claimant
14 is incapacitated from verifying, presenting, and filing ~~((his))~~ the
15 claim in the time prescribed or if the claimant is a minor, or is a
16 nonresident of the state absent therefrom during the time within which
17 ~~((his))~~ the claim is required to be filed, the claim may be verified,
18 presented, and filed on behalf of the claimant by any relative,
19 attorney, or agent representing ~~((him))~~ the claimant.

20 (4) No action shall be commenced against any ~~((such))~~ local
21 governmental entity for damages arising out of tortious conduct until
22 ~~((a))~~ sixty days have elapsed after the claim has first been presented
23 to and filed with the governing body thereof~~((The requirements of~~
24 ~~this subsection shall not affect the applicable period of limitations~~
25 ~~within which an action must be commenced, but such period shall begin~~
26 ~~and shall continue to run as if no claim were required))~~. The
27 applicable period of limitations within which an action must be
28 commenced shall be tolled during the sixty-day period.

1 **Sec. 4.** RCW 36.16.134 and 1989 c 250 s 1 are each amended to read
2 as follows:

3 (1) Whenever an action or proceeding for damages is brought against
4 any past or present officer ((or)), employee, or volunteer of a
5 ((county)) local governmental entity of this state, arising from acts
6 or omissions while performing or in good faith purporting to perform
7 his or her official duties, such officer ((or)), employee, or volunteer
8 may request the ((county)) local governmental entity to authorize the
9 defense of the action or proceeding at the expense of the ((county))
10 local governmental entity.

11 (2) If the ((county)) legislative authority of the local
12 governmental entity finds that the acts or omissions of the officer
13 ((or)), employee, or volunteer were, or in good faith purported to be,
14 within the scope of his or her official duties, the request ((may))
15 shall be granted. If the request is granted, the necessary expenses of
16 defending the action or proceeding shall be paid by the ((county))
17 local governmental entity. Any monetary judgment against the officer
18 ((or)), employee ((may)), or volunteer shall be paid on approval of the
19 ((county)) legislative authority of the local governmental entity.

20 (3) The necessary expenses of defending an elective ((county))
21 officer of the local governmental entity in a judicial hearing to
22 determine the sufficiency of a recall charge as provided in RCW
23 29.82.023 shall be paid by the ((county)) local governmental entity if
24 the officer requests such defense and approval is granted by both the
25 ((county)) legislative authority of the local governmental entity and
26 the ((prosecuting)) attorney representing the local governmental
27 entity. The expenses paid by the ((county)) local governmental entity
28 may include costs associated with an appeal of the decision rendered by
29 the superior court concerning the sufficiency of the recall charge.

1 (4) When an officer, employee, or volunteer of the local
2 governmental entity has been represented at the expense of the local
3 governmental entity under subsection (1) of this section and the court
4 hearing the action has found that the officer, employee, or volunteer
5 was acting within the scope of his or her official duties, and a
6 judgment has been entered against the officer, employee, or volunteer
7 under chapter 4.96 RCW or 42 U.S.C. Sec. 1981 et seq., thereafter the
8 judgment creditor shall seek satisfaction only from the local
9 governmental entity, and judgment shall not become a lien upon any
10 property of such officer, employee, or volunteer.

11 NEW SECTION. Sec. 5. A new section is added to chapter 4.96 RCW
12 to read as follows:

13 No bond is required of any local governmental entity for any
14 purpose in any case in any of the courts of the state of Washington and
15 all local governmental entities shall be, on proper showing, entitled
16 to any orders, injunctions, and writs of whatever nature without bond,
17 notwithstanding the provisions of any existing statute requiring that
18 bonds be furnished by private parties.

19 **Sec. 6.** RCW 6.17.080 and 1987 c 442 s 408 are each amended to read
20 as follows:

21 No execution may issue for collection of a judgment for the
22 recovery of money or damages against a ~~((county or other public~~
23 ~~corporation))~~ local governmental entity. Any such judgment may be
24 enforced as follows:

25 (1) The judgment creditor may at any time when execution might
26 issue on a like judgment against a private person, and after

1 acknowledging satisfaction of the judgment as in ordinary cases, obtain
2 from the clerk a certified transcript of the judgment. The clerk shall
3 include in the transcript a copy of the memorandum of acknowledgment of
4 satisfaction and the entry thereof as the basis for an order on the
5 treasurer for payment. Unless the transcript contains such memorandum,
6 no order upon the treasurer shall issue thereon.

7 (2) The judgment creditor shall present the certified transcript
8 showing satisfaction of the judgment to the officer of the (~~county or~~
9 ~~other public corporation~~) local governmental entity who is authorized
10 to draw orders on its treasury.

11 (3) The officer shall draw an order on the treasurer for the amount
12 of the judgment, in favor of the judgment creditor. The order shall be
13 presented for payment and paid with like effect and in like manner as
14 other orders upon the treasurer. If the proper officer of the (~~county~~
15 ~~or other public corporation~~) local governmental entity fails or
16 refuses to draw the order for payment of the judgment as provided in
17 this section, a writ of mandamus may be issued in the original case to
18 compel performance of the duty.

19 (4) As used in this section, the term "local governmental entity"
20 means a county, city, town, special district, municipal corporation, or
21 quasi-municipal corporation.

22 **Sec. 7.** RCW 35.31.020 and 1967 c 164 s 12 are each amended to read
23 as follows:

24 The provisions of chapter 35.31 RCW shall be applied
25 notwithstanding any provisions to the contrary in any charter of any
26 city permitted by law to have a charter; however, charter provisions
27 not inconsistent herewith shall continue to apply. All claims for
28 damages against a charter city shall be filed (~~within one hundred and~~
29 ~~twenty days from the date that the damage occurred or the injury was~~

1 ~~sustained:— PROVIDED, That if the claimant is incapacitated from~~
2 ~~verifying and filing his claim for damages within the time prescribed,~~
3 ~~or if the claimant is a minor, or in case the claim is for damages to~~
4 ~~real or personal property, and if the owner of such property is a~~
5 ~~nonresident of such city or is absent therefrom during the time within~~
6 ~~which a claim for damages to said property is required to be filed,~~
7 ~~then the claim may be verified and presented on behalf of the claimant~~
8 ~~by any relative or attorney or agency representing the injured person,~~
9 ~~or in case of damages to property, representing the owner thereof)) in~~
10 ~~the manner set forth in chapter 4.96 RCW.~~

11 **Sec. 8.** RCW 35.31.040 and 1989 c 74 s 1 are each amended to read
12 as follows:

13 All claims for damages against noncharter cities and towns ((~~must~~
14 ~~be presented to the city or town council and filed with the city or~~
15 ~~town clerk within the period specified in the appropriate statute of~~
16 ~~limitations)) shall be filed in the manner set forth in chapter 4.96
17 RCW.~~

18 No ordinance or resolution shall be passed allowing such claim or
19 any part thereof, or appropriating any money or other property to pay
20 or satisfy the same or any part thereof, until the claim has first been
21 referred to the proper department or committee, nor until such
22 department or committee has made its report to the council thereon
23 pursuant to such reference.

24 ((~~All such claims for damages must accurately locate and describe~~
25 ~~the defect that caused the injury, reasonably describe the injury and~~
26 ~~state the time when it occurred, give the residence for six months last~~
27 ~~past of claimant, contain the item of damages claimed and be sworn to~~
28 ~~by the claimant or a relative, attorney or agent of the claimant.~~

1 ~~No action shall be maintained against any such city or town for any~~
2 ~~claim for damages until the same has been presented to the council and~~
3 ~~sixty days have elapsed after such presentation.))~~

4 **Sec. 9.** RCW 35A.31.030 and 1967 ex.s. c 119 s 35A.31.030 are each
5 amended to read as follows:

6 No ordinance or resolution shall be passed allowing such claim or
7 any part thereof, or appropriating any money or other property to pay
8 or satisfy the same or any part thereof, until the claim has first been
9 referred to the proper department or committee, nor until such
10 department or committee has made its report thereon to the legislative
11 body of the code city pursuant to such reference. ~~((All such claims~~
12 ~~for damages must accurately locate and describe the defect that caused~~
13 ~~the injury, reasonably describe the injury and state the time when it~~
14 ~~occurred, contain the item of damages claimed and be verified by the~~
15 ~~claimant or a relative, attorney, or agent of the claimant.))~~

16 No action shall be maintained against any code city for any claim
17 for damages until the ~~((same))~~ claim has been ~~((presented to the~~
18 ~~legislative body of the city by filing with the clerk and sixty days~~
19 ~~have elapsed after such presentation))~~ filed in the manner set forth in
20 chapter 4.96 RCW.

21 **Sec. 10.** RCW 36.45.010 and 1967 c 164 s 14 are each amended to
22 read as follows:

23 All claims for damages against any county ~~((must))~~ shall be
24 ~~((presented before the board of county commissioners and filed with the~~
25 ~~clerk thereof within one hundred and twenty days from the date that the~~
26 ~~damage occurred or the injury was sustained))~~ filed in the manner set
27 forth in chapter 4.96 RCW.

1 **Sec. 11.** RCW 54.16.110 and 1979 ex.s. c 240 s 3 are each amended
2 to read as follows:

3 A district may sue in any court of competent jurisdiction, and may
4 be sued in the county in which its principal office is located or in
5 which it owns or operates facilities. No suit for damages shall be
6 maintained against a district except on a claim filed with the
7 ~~((commission))~~ district complying in all respects with the terms and
8 requirements for claims for damages ~~((filed against cities of the~~
9 ~~second class))~~ set forth in chapter 4.96 RCW.

10 **Sec. 12.** RCW 87.03.440 and 1983 c 167 s 218 are each amended to
11 read as follows:

12 The treasurer of the county in which is located the office of the
13 district shall be ex officio treasurer of the district, and any county
14 treasurer handling district funds shall be liable upon his or her
15 official bond and to criminal prosecution for malfeasance and
16 misfeasance, or failure to perform any duty as county or district
17 treasurer. The treasurer of each county in which lands of the district
18 are located shall collect and receipt for all assessments levied on
19 lands within his or her county. There shall be deposited with the
20 district treasurer all funds of the district. ~~((He))~~ The district
21 treasurer shall pay out such funds upon warrants issued by the county
22 auditor against the proper funds of the district, except the sums to be
23 paid out of the bond fund for interest and principal payments on bonds:
24 PROVIDED, That in those districts which designate their own treasurer,
25 the treasurer may issue the warrants or any checks when the district is
26 authorized to issue checks. All warrants shall be paid in the order of
27 their issuance. The district treasurer shall report, in writing, on
28 the first Monday in each month to the directors, the amount in each
29 fund, the receipts for the month preceding in each fund, and file the

1 report with the secretary of the board. The secretary shall report to
2 the board, in writing, at the regular meeting in each month, the amount
3 of receipts and expenditures during the preceding month, and file the
4 report in the office of the board.

5 The preceding paragraph of this section notwithstanding, the board
6 of directors or board of control of an irrigation district which lies
7 in more than one county and which had assessments in each of two of the
8 preceding three years equal to at least five hundred thousand dollars
9 may designate some other person having experience in financial or
10 fiscal matters as treasurer of the district. In addition, the board of
11 directors of an irrigation district which lies entirely within one
12 county may designate some other person having experience in financial
13 or fiscal matters as treasurer of the district if the board has the
14 approval of the county treasurer to designate some other person. If
15 the board designates a treasurer, it shall require a bond with a surety
16 company authorized to do business in the state of Washington in an
17 amount and under the terms and conditions which it finds from time to
18 time will protect the district against loss. The premium on the bond
19 shall be paid by the district. The designated treasurer shall collect
20 and receipt for all irrigation district assessments on lands within the
21 district and shall act with the same powers and duties and be under the
22 same restrictions as provided by law for county treasurers acting in
23 matters pertaining to irrigation districts, except the powers, duties,
24 and restrictions in RCW 87.56.110 and 87.56.210 which shall continue to
25 be those of county treasurers.

26 In those districts which have designated their own treasurers, the
27 provisions of law pertaining to irrigation districts which require
28 certain acts to be done and which refer to and involve a county
29 treasurer or the office of a county treasurer or the county officers
30 charged with the collection of irrigation district assessments, except

1 RCW 87.56.110 and 87.56.210 shall be construed to refer to and involve
2 the designated district treasurer or the office of the designated
3 district treasurer.

4 Any claim against the district for which it is liable under
5 existing laws shall be presented to the board as provided in RCW
6 4.96.020 and upon allowance it shall be attached to a voucher and
7 approved by the chairman and signed by the secretary and directed to
8 the proper official for payment: PROVIDED, That in the event
9 claimant's claim is for crop damage, the claimant in addition to filing
10 his or her claim within the (~~one hundred twenty day limit~~) applicable
11 period of limitations within which an action must be commenced and in
12 the manner specified in RCW 4.96.020 must file with the secretary of
13 the district, or in (~~his~~) the secretary's absence one of the
14 directors, not less than three days prior to the severance of the crop
15 alleged to be damaged, a written preliminary notice pertaining to the
16 crop alleged to be damaged. Such preliminary notice, so far as
17 claimant is able, shall advise the district; that the claimant has
18 filed a claim or intends to file a claim against the district for
19 alleged crop damage; shall give the name and present residence of the
20 claimant; shall state the cause of the damage to the crop alleged to be
21 damaged and the estimated amount of damage; and shall accurately locate
22 and describe where the crop alleged to be damaged is located. Such
23 preliminary notice may be given by claimant or by anyone acting in his
24 or her behalf and need not be verified. No action may be commenced
25 against an irrigation district for crop damages unless claimant has
26 complied with the provisions of RCW 4.96.020 and also with the
27 preliminary notice requirements of this section.

28 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
29 each repealed:

- 1 (1) RCW 35.31.010 and 1967 c 164 s 11 & 1965 c 7 s 35.31.010;
- 2 (2) RCW 35.31.030 and 1965 c 7 s 35.31.030;
- 3 (3) RCW 36.45.020 and 1963 c 4 s 36.45.020;
- 4 (4) RCW 36.45.030 and 1973 c 36 s 1 & 1963 c 4 s 36.45.030; and
- 5 (5) RCW 53.34.210 and 1959 c 236 s 21.

6 NEW SECTION. **Sec. 14.** RCW 36.16.134 is recodified as a section
7 in chapter 4.96 RCW.

8 NEW SECTION. **Sec. 15.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.