

ESHB 1553 - S COMM AMD

By Committee on Government Operations & Elections

NOT ADOPTED 04/16/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 4.96.020 and 2006 c 82 s 3 are each amended to read
4 as follows:

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

10 (2) The governing body of each local governmental entity shall
11 appoint an agent to receive any claim for damages made under this
12 chapter. The identity of the agent and the address where he or she may
13 be reached during the normal business hours of the local governmental
14 entity are public records and shall be recorded with the auditor of the
15 county in which the entity is located. All claims for damages against
16 a local governmental entity, or against any local governmental entity's
17 officers, employees, or volunteers, acting in such capacity, shall be
18 presented to the agent within the applicable period of limitations
19 within which an action must be commenced. Presentation is accomplished
20 by delivery to the agent or other person designated to accept delivery
21 at the agent's office, by registered mail, or by certified mail, return
22 receipt requested. The failure of a local governmental entity to
23 comply with the requirements of this section precludes that local
24 governmental entity from raising a defense under this chapter.

25 ~~(3) ((All claims for damages arising out of tortious conduct must~~
26 ~~locate and describe the conduct and circumstances which brought about~~
27 ~~the injury or damage, describe the injury or damage, state the time and~~
28 ~~place the injury or damage occurred, state the names of all persons~~
29 ~~involved, if known, and shall contain the amount of damages claimed,~~
30 ~~together with a statement of the actual residence of the claimant at~~

1 ~~the time of presenting and filing the claim and for a period of six~~
2 ~~months immediately prior to the time the claim arose. If the claimant~~
3 ~~is incapacitated from verifying, presenting, and filing the claim in~~
4 ~~the time prescribed or if the claimant is a minor, or is a nonresident~~
5 ~~of the state absent therefrom during the time within which the claim is~~
6 ~~required to be filed, the claim may be verified, presented, and filed~~
7 ~~on behalf of the claimant by any relative, attorney, or agent~~
8 ~~representing the claimant.))~~ All claims for damages must be presented
9 on the standard tort claim form, maintained by the risk management
10 division of the office of financial management and on its web site, and
11 be adopted by the local government, and must: Describe the conduct and
12 the circumstances that brought about the injury or damage; describe the
13 injury or damage; state the time and place that the injury or damage
14 occurred; state the names of all persons involved, if known; and
15 contain the amount of damages claimed, together with a statement of the
16 actual residence of the claimant at the time of presenting the claim
17 and at the time the claim arose. The claim form must not list the
18 claimant's social security number and must not require information not
19 specified under this section. The claim must be signed: (a) By the
20 party making the claim; (b) by the claimant's parent, guardian, or
21 personal representative; (c) by a person with a written power of
22 attorney; or (d) by an attorney admitted to practice in Washington
23 state on the claimant's behalf. Local governmental entities must make
24 available the standard tort claim form with instructions on how the
25 form is to be presented, as well as the name, address, and business
26 hours of the agent of the local governmental entity. If the claim form
27 provided by the local governmental entity fails to seek the information
28 specified in this section or incorrectly lists the agent with whom the
29 claim is to be filed, the local governmental entity is deemed to have
30 waived any defense related to the failure to provide that specific
31 information or to file with the proper designated agent. The amount of
32 damages stated on the claim form is not admissible at trial.

33 (4) No action shall be commenced against any local governmental
34 entity, or against any local governmental entity's officers, employees,
35 or volunteers, acting in such capacity, for damages arising out of
36 tortious conduct until sixty calendar days have elapsed after the claim
37 has first been presented to (~~and filed with~~) the governing body
38 thereof. The applicable period of limitations within which an action

1 must be commenced shall be tolled during the sixty((-)) calendar day
2 period. An action commenced within five business days after the sixty
3 calendar day period has elapsed will be deemed timely.

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

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

10 (1) All claims against the state, or against the state's officers,
11 employees, or volunteers, acting in such capacity, for damages arising
12 out of tortious conduct, except for claims involving injuries from
13 health care, which are governed solely by the procedures set forth in
14 chapter 7.70 RCW and are exempt from this section, shall be presented
15 to ((and filed with)) the risk management division. ((All such claims
16 shall be verified and shall accurately describe the conduct and
17 circumstances which brought about the injury or damage, describe the
18 injury or damage, state the time and place the injury or damage
19 occurred, state the names of all persons involved, if known, and shall
20 contain the amount of damages claimed, together with a statement of the
21 actual residence of the claimant at the time of presenting and filing
22 the claim and for a period of six months immediately prior to the time
23 the claim arose. If the claimant is incapacitated from verifying,
24 presenting, and filing the claim or if the claimant is a minor, or is
25 a nonresident of the state, the claim may be verified, presented, and
26 filed on behalf of the claimant by any relative, attorney, or agent
27 representing the claimant.)) Presentation is accomplished by delivery
28 to the risk management division, by registered mail, or by certified
29 mail, return receipt requested. All claims for damages must be
30 presented on the standard tort claim form, maintained by the risk
31 management division and on its web site, and must: Describe the
32 conduct and the circumstances that brought about the injury or damage;
33 describe the injury or damage; state the date, time, and place that the
34 injury or damage occurred; state the names of all persons involved, if
35 known; and contain the amount of damages claimed, together with a
36 statement of the actual residence of the claimant at the time of
37 presenting the claim and at the time the claim arose. The claim form

1 must not list the claimant's social security number and must not
2 require information not specified under this section. The claim must
3 be signed: (a) By the party making the claim; (b) by the claimant's
4 parent, guardian, or personal representative; (c) by a person with a
5 written power of attorney; or (d) by an attorney admitted to practice
6 in Washington state on the claimant's behalf. The amount of damages
7 stated on the claim form is not admissible at trial.

8 (2) The state shall make available the standard tort claim form
9 with instructions on how the form is to be presented, as well as the
10 name, address, and business hours of the risk management division.

11 (3) With respect to the content of (~~such~~) claims under this
12 section and all procedural requirements in this section, this section
13 (~~shall~~) must be liberally construed so that substantial compliance
14 will be deemed satisfactory.

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

17 No action subject to the claim presentation requirements of RCW
18 4.92.100 shall be commenced against the state, or against any state
19 officer, employee, or volunteer, acting in such capacity, for damages
20 arising out of tortious conduct until sixty calendar days have elapsed
21 after the claim is presented to (~~and filed with~~) the risk management
22 division. The applicable period of limitations within which an action
23 must be commenced shall be tolled during the sixty (~~-~~) calendar day
24 period. An action commenced within five business days after the sixty
25 calendar day period has elapsed is deemed timely."

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26 On page 1, line 2 of the title, after "entities;" strike the
27 remainder of the title and insert "and amending RCW 4.96.020, 4.92.100,
28 and 4.92.110."

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