

Chapter 4.96 RCW
ACTIONS AGAINST POLITICAL SUBDIVISIONS, MUNICIPAL AND QUASI-MUNICIPAL CORPORATIONS

Sections

- 4.96.010 Tortious conduct of local governmental entities—Liability for damages.
- 4.96.020 Tortious conduct of local governmental entities and their agents—Claims—Presentment and filing—Contents.
- 4.96.041 Action or proceeding against officer, employee, or volunteer of local governmental entity—Payment of damages and expenses of defense.
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Claims, reports, etc., filing and receipt: RCW 1.12.070.

Interest on judgments: RCW 4.56.115.

Liability of local governments for injury to unauthorized third-party occupant of local government vehicle: RCW 4.92.180.

Liability of public officials and governing body members: RCW 4.24.470.

RCW 4.96.010 Tortious conduct of local governmental entities—Liability for damages. (1) All local governmental entities, whether acting in a governmental or proprietary capacity, shall be liable for damages arising out of their tortious conduct, or the tortious conduct of their past or present officers, employees, or volunteers while performing or in good faith purporting to perform their official duties, to the same extent as if they were a private person or corporation. Filing a claim for damages within the time allowed by law shall be a condition precedent to the commencement of any action claiming damages. The laws specifying the content for such claims shall be liberally construed so that substantial compliance therewith will be deemed satisfactory.

(2) Unless the context clearly requires otherwise, for the purposes of this chapter, "local governmental entity" means a county, city, town, special district, municipal corporation as defined in RCW 39.50.010, quasi-municipal corporation, any joint municipal utility services authority, any entity created by public agencies under RCW 39.34.030, or public hospital.

(3) For the purposes of this chapter, "volunteer" is defined according to RCW 51.12.035. [2011 c 258 § 10; 2001 c 119 § 1; 1993 c 449 § 2; 1967 c 164 § 1.]

Short title—Purpose—Intent—2011 c 258: See RCW 39.106.010.

Purpose—1993 c 449: "This act is designed to provide a single, uniform procedure for bringing a claim for damages against a local governmental entity. The existing procedures, contained in chapter 36.45 RCW, counties, chapter 35.31 RCW, cities and towns, chapter 35A.31 RCW, optional municipal code, and chapter 4.96 RCW, other political subdivisions, municipal corporations, and quasi-municipal

corporations, are revised and consolidated into chapter 4.96 RCW." [1993 c 449 § 1.]

Severability—1993 c 449: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 449 § 15.]

Purpose—1967 c 164: "It is the purpose of this act to extend the doctrine established in chapter 136, Laws of 1961, as amended, to all political subdivisions, municipal corporations and quasi municipal corporations of the state." [1967 c 164 § 17.]

Severability—1967 c 164: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 c 164 § 18.]

RCW 4.96.020 Tortious conduct of local governmental entities and their agents—Claims—Presentment and filing—Contents. (1) The provisions of this section apply to claims for damages against all local governmental entities and their officers, employees, or volunteers, acting in such capacity.

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

(3) For claims for damages presented after July 26, 2009, all claims for damages must be presented on the standard tort claim form that is maintained by the office of risk management in the department of enterprise services, except as allowed under (c) of this subsection. The standard tort claim form must be posted on the department of enterprise services' website.

(a) The standard tort claim form must, at a minimum, require the following information:

- (i) The claimant's name, date of birth, and contact information;
- (ii) A description of the conduct and the circumstances that brought about the injury or damage;
- (iii) A description of the injury or damage;
- (iv) A statement of the time and place that the injury or damage occurred;

(v) A listing of the names of all persons involved and contact information, if known;

(vi) A statement of the amount of damages claimed; and

(vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

(b) The standard tort claim form must be signed either:

(i) By the claimant, verifying the claim;

(ii) Pursuant to a written power of attorney, by the attorney-in-fact for the claimant;

(iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or

(iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) Local governmental entities shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity. If a local governmental entity chooses to also make available its own tort claim form in lieu of the standard tort claim form, the form:

(i) May require additional information beyond what is specified under this section, but the local governmental entity may not deny a claim because of the claimant's failure to provide that additional information;

(ii) Must not require the claimant's social security number; and

(iii) Must include instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity appointed to receive the claim.

(d) If any claim form provided by the local governmental entity fails to require the information specified in this section, or incorrectly lists the agent with whom the claim is to be filed, the local governmental entity is deemed to have waived any defense related to the failure to provide that specific information or to present the claim to the proper designated agent.

(e) Presenting either the standard tort claim form or the local government tort claim form satisfies the requirements of this chapter.

(f) The amount of damages stated on the claim form is not admissible at trial.

(4) No action subject to the claim filing requirements of this section shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim has first been presented to the agent of the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

(5) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory. [2015 c 225 § 6; 2012 c 250 § 2; 2009 c 433 § 1; 2006 c 82 § 3; 2001 c 119 § 2; 1993 c 449 § 3; 1967 c 164 § 4.]

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.

RCW 4.96.041 Action or proceeding against officer, employee, or volunteer of local governmental entity—Payment of damages and expenses of defense. (1) Whenever an action or proceeding for damages is brought against any past or present officer, employee, or volunteer of a local governmental entity of this state, arising from acts or omissions while performing or in good faith purporting to perform his or her official duties, such officer, employee, or volunteer may request the local governmental entity to authorize the defense of the action or proceeding at the expense of the local governmental entity.

(2) If the legislative authority of the local governmental entity, or the local governmental entity using a procedure created by ordinance or resolution, finds that the acts or omissions of the officer, employee, or volunteer were, or in good faith purported to be, within the scope of his or her official duties, the request shall be granted. If the request is granted, the necessary expenses of defending the action or proceeding shall be paid by the local governmental entity. Any monetary judgment against the officer, employee, or volunteer shall be paid on approval of the legislative authority of the local governmental entity or by a procedure for approval created by ordinance or resolution.

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

(4) When an officer, employee, or volunteer of the local governmental entity has been represented at the expense of the local governmental entity under subsection (1) of this section and the court hearing the action has found that the officer, employee, or volunteer was acting within the scope of his or her official duties, and a judgment has been entered against the officer, employee, or volunteer under chapter 4.96 RCW or 42 U.S.C. Sec. 1981 et seq., thereafter the judgment creditor shall seek satisfaction for nonpunitive damages only from the local governmental entity, and judgment for nonpunitive damages shall not become a lien upon any property of such officer, employee, or volunteer. The legislative authority of a local governmental entity may, pursuant to a procedure created by ordinance or resolution, agree to pay an award for punitive damages. [1993 c 449 § 4; 1989 c 250 § 1; 1979 ex.s. c 72 § 1. Formerly RCW 36.16.134.]

***Reviser's note:** RCW 29.82.023 was recodified as RCW 29A.56.140 pursuant to 2003 c 111 § 2401, effective July 1, 2004.

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.

RCW 4.96.050 Bond not required. No bond is required of any local governmental entity for any purpose in any case in any of the courts of the state of Washington and all local governmental entities shall be, on proper showing, entitled to any orders, injunctions, and writs of whatever nature without bond, notwithstanding the provisions of any existing statute requiring that bonds be furnished by private parties. [1993 c 449 § 5.]

Purpose—Severability—1993 c 449: See notes following RCW 4.96.010.