

## CHAPTER 217

[Substitute House Bill No. 124]

VOLUNTEERS OF THE STATE—DEFENSE AND PAYMENT OF TORT CLAIMS  
AUTHORIZED

AN ACT Relating to actions against state officers, employees, and authorized agents; amending RCW 4.92.060, 4.92.070, 4.92.130, 4.92.140, and 4.92.150; and adding a new section to chapter 4.92 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 79, Laws of 1921 as last amended by section 1, chapter 126, Laws of 1975 1st ex. sess. and RCW 4.92.060 are each amended to read as follows:

Whenever an action or proceeding for damages shall be instituted against any state officer, including state elected officials, ~~((or))~~ employee, or volunteer, arising from his acts or omissions while performing, or in good faith purporting to perform, his official duties, such officer ~~((or))~~, employee, or volunteer may request the attorney general to authorize the defense of said action or proceeding at the expense of the state.

Sec. 2. Section 2, chapter 79, Laws of 1921 as last amended by section 2, chapter 126, Laws of 1975 1st ex. sess. and RCW 4.92.070 are each amended to read as follows:

If the attorney general shall find that said officer ~~((or employee's))~~, employee, or volunteer's acts or omissions were, or purported to be in good faith, within the scope of his official duties, said request shall be granted, in which event the necessary expenses of the defense of said action or proceeding shall be paid from the appropriations made for the support of the department to which such officer ~~((or))~~, employee, or volunteer is attached. In such cases the attorney general shall appear and defend such officer ~~((or))~~, employee, or volunteer, who shall assist and cooperate in the defense of such suit.

Sec. 3. Section 7, chapter 159, Laws of 1963 as last amended by section 3, chapter 126, Laws of 1975 1st ex. sess. and RCW 4.92.130 are each amended to read as follows:

A tort claims revolving fund in the custody of the treasurer is hereby created to be used solely and exclusively for the payment of claims against the state arising out of tortious conduct and against its officers ~~((and))~~, employees, and volunteers for whom the defense of the claim was authorized under RCW 4.92.070. No money shall be paid from the tort claims revolving fund unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted and unless:

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

(2) The claim has been approved for payment in accordance with RCW 4.92.140 as herein or hereafter amended.

Sec. 4. Section 8, chapter 159, Laws of 1963 as last amended by section 1, chapter 144, Laws of 1979 ex. sess. and RCW 4.92.140 are each amended to read as follows:

The head or governing body of any agency or department of state government or the designee of any such agency, with the approval of the attorney general, may consider, ascertain, adjust, determine, compromise, and settle any claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. for which the state of Washington or any of its officers ((or))<sub>1</sub> employees, or volunteers would be liable in law for money damages of ten thousand dollars or less. The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant; and upon the state of Washington, unless procured by fraud, and shall constitute a complete release of any claim against the state of Washington or its affected officer ((or))<sub>2</sub> employee, or volunteer. A request for administrative settlement shall not preclude a claimant from filing a court action pending administrative determination, limit the amount recoverable in such a suit, or constitute an admission against interest of either the claimant or the state.

Sec. 5. Section 9, chapter 159, Laws of 1963 as last amended by section 2, chapter 144, Laws of 1979 ex. sess. and RCW 4.92.150 are each amended to read as follows:

After commencement of an action in a court of competent jurisdiction upon a claim against the state, or any of its officers ((or))<sub>1</sub> employees, or volunteers arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq., or upon petition by the state, the attorney general, with the approval of the court, following such testimony as the court may require, may compromise and settle the same and stipulate for judgment against the state, the affected officer ((or))<sub>2</sub> employee, or volunteer.

**NEW SECTION.** Sec. 6. A new section is added to chapter 4.92 RCW to read as follows:

For the purposes of RCW 4.92.060, 4.92.070, 4.92.130, 4.92.140, and 4.92.150, volunteer is defined in RCW 51.12.035.

Passed the House February 15, 1985.

Passed the Senate April 16, 1985.

Approved by the Governor May 7, 1985.

Filed in Office of Secretary of State May 7, 1985.