

(2) Locate available employment or vocational training opportunities for qualified work release participants;

(3) Effect placement of work release participants under the program;

(4) Collect, account for and make disbursement from earnings of work release participants under the provisions of this chapter, including accounting for all inmate debt in the community services revolving fund. RCW 9.95.370 applies to inmates assigned to work/training release facilities who receive assistance as provided in RCW 9.95.310, 9.95.320, 72.65.050, and 72.65.090;

(5) Promote public understanding and acceptance of the work release program.

All state agencies shall cooperate with the department in the administration of the work release program as provided by this chapter.

Passed the Senate March 9, 1986.

Passed the House March 7, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 126

[Senate Bill No. 4693]

TORT CLAIMS AGAINST THE STATE

AN ACT Relating to tort claims against the state; amending RCW 4.92.010, 4.92.020, 4.92.030, 4.92.040, 4.92.060, 4.92.070, 4.92.100, 4.92.110, 4.92.160, 4.92.170, 77.12.270, and 77.12.280; and repealing RCW 4.92.131.

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

Sec. 1. Section 1, chapter 95, Laws of 1895 as last amended by section 1, chapter 44, Laws of 1973 and RCW 4.92.010 are each amended to read as follows:

Any person or corporation having any claim against the state of Washington shall have a right of action against the state in the superior court. ~~((The plaintiff in such action shall, at the time of filing his complaint, file a surety bond executed by the plaintiff and a surety company authorized to do business in the state of Washington to the effect that such plaintiff will indemnify the state against all costs that may accrue in such action; and will pay to the clerk of said court all costs in case the plaintiff shall fail to prosecute his action or to obtain a judgment against the state: PROVIDED, That in actions for the enforcement or foreclosure of any lien upon, or to determine or quiet title to, any real property in which the state of Washington is a necessary or proper party defendant no surety bond as above provided for shall be required.))~~

The venue for such actions shall be as follows:

(1) The county of the residence or principal place of business of one or more of the plaintiffs;

- (2) The county where the cause of action arose;
- (3) The county in which the real property that is the subject of the action is situated;
- (4) The county where the action may be properly commenced by reason of the joinder of an additional defendant; or
- (5) Thurston county.

Actions shall be subject to change of venue in accordance with statute, rules of court, and the common law as the same now exist or may hereafter be amended, adopted, or altered.

Actions shall be tried in the county in which they have been commenced in the absence of a seasonable motion by or in behalf of the state to change the venue of the action.

Sec. 2. Section 2, chapter 95, Laws of 1895 as amended by section 2, chapter 216, Laws of 1927 and RCW 4.92.020 are each amended to read as follows:

Service of summons and complaint in such actions shall be served in the manner prescribed by law upon the attorney general, or by leaving the ~~((same))~~ summons and complaint in ~~((his))~~ the office of the attorney general with an assistant attorney general.

Sec. 3. Section 3, chapter 95, Laws of 1895 as amended by section 24, chapter 81, Laws of 1971 and RCW 4.92.030 are each amended to read as follows:

The attorney general or ~~((his))~~ an assistant attorney general shall appear and act as counsel for the state. The action shall proceed in all respects as other actions. Appeals may be taken to the supreme court or court of appeals of the state as in other actions or proceedings, but in case an appeal shall be taken on behalf of the state, no bond shall be required of the appellant.

Sec. 4. Section 4, chapter 95, Laws of 1895, as last amended by section 28, chapter 161, Laws of 1983 and RCW 4.92.040 are each amended to read as follows:

- (1) No execution shall issue against the state on any judgment.
- (2) Whenever a final judgment against the state ~~((shall have been))~~ is obtained in an action on a claim arising out of tortious conduct, the ~~((clerk shall make and furnish to the director of financial management a duly certified copy of said judgment and the same))~~ claim shall be paid ~~((out of))~~ from the tort claims revolving fund.
- (3) Whenever a final judgment against the state shall have been obtained in any other action, the clerk of the court shall make and furnish to the ~~((director of financial))~~ risk management office a duly certified copy of such judgment; the ~~((director of financial))~~ risk management office shall thereupon audit the amount of damages and costs therein awarded, and the

same shall be paid from appropriations specifically provided for such purposes by law.

(4) ~~((On and after September 21, 1977,))~~ Final judgments for which there are no provisions in state law for payment shall be transmitted by the risk management office to the senate and house of representatives committees on ways and means as follows:

(a) On the first day of each session of the legislature, the risk management office shall transmit judgments received and audited since the adjournment of the previous session of the legislature.

(b) During each session of legislature, the risk management office shall transmit judgments immediately upon completion of audit.

(5) All claims, other than judgments, made to the legislature against the state of Washington for money or property, shall be accompanied by a statement of the facts on which such claim is based and such evidence as the claimant intends to offer in support of the claim and shall be filed with the ~~((director of financial))~~ risk management ~~((who))~~ office, which shall retain the same as a record. All claims of ~~((five hundred))~~ two thousand dollars or less shall be approved or rejected by the ~~((director of financial))~~ risk management office, and if approved shall be paid from appropriations specifically provided for such purpose by law. Such decision, if adverse to the claimant in whole or part, shall not preclude the claimant from seeking relief from the legislature~~((: PROVIDED, That))~~. If the claimant accepts any part of his or her claim which is approved for payment by the ~~((director))~~ risk management office, such acceptance shall constitute a waiver and release of the state from any further claims relating to the damage or injury asserted in the claim so accepted. The ~~((director))~~ risk management office shall submit to the house and senate committees on ways and means ~~((and to the house committee on appropriations))~~, at the beginning of each regular session, a comprehensive list of all claims paid pursuant to this subsection during the preceding ~~((two))~~ year~~((s))~~. For all claims ~~((over five hundred dollars))~~ not approved by the risk management office, the ~~((director of financial))~~ risk management office shall recommend to the legislature whether such claims should be approved or rejected. Recommendations shall be submitted to the senate and house of representatives committees on ways and means not later than the thirtieth day of each regular session of the legislature. Claims which cannot be processed for timely submission of recommendations shall be held for submission during the following regular session of the legislature. The recommendations shall include, but not be limited to:

(a) A summary of the facts alleged in the claim, and a statement as to whether these facts can be verified by the risk management office;

(b) An estimate by the risk management office of the value of the loss or damage which was alleged to have occurred;

(c) An analysis of the legal liability, if any, of the state for the alleged loss or damage; and

(d) A summary of equitable or public policy arguments which might be helpful in resolving the claim.

(5) The legislative committees to whom such claims are referred shall make a transcript, recording, or statement of the substance of the evidence given in support of such a claim. If the legislature approves a claim the same shall be paid from appropriations specifically provided for such purpose by law.

~~((5))~~ (6) Subsections (3) ~~((and (4)))~~ through (5) of this section do not apply to judgments or claims against the state housing finance commission created under chapter 43.180 RCW.

Sec. 5. Section 1, chapter 79, Laws of 1921 as last amended by section 1, chapter 217, Laws of 1985 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, employee, or volunteer, arising from ~~((his))~~ acts or omissions while performing, or in good faith purporting to perform, ~~((his))~~ official duties, such officer, employee, or volunteer may request the attorney general to authorize the defense of said action or proceeding at the expense of the state.

Sec. 6. Section 2, chapter 79, Laws of 1921 as last amended by section 2, chapter 217, Laws of 1985 and RCW 4.92.070 are each amended to read as follows:

If the attorney general shall find that said officer, employee, or volunteer's acts or omissions were, or purported to be in good faith, within the scope of ~~((his))~~ that person's 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, employee, or volunteer is attached. In such cases the attorney general shall appear and defend such officer, employee, or volunteer, who shall assist and cooperate in the defense of such suit.

Sec. 7. Section 3, chapter 159, Laws of 1963 as last amended by section 3, chapter 151, Laws of 1979 and RCW 4.92.100 are each amended to read as follows:

All claims against the state for damages arising out of tortious conduct shall be presented to and filed with the ~~((director of financial))~~ risk management office. All such claims shall be verified and shall accurately describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of

the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing ~~((his))~~ the claim or if the claimant is a minor, or is a nonresident of the state, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing ~~((him))~~ the claimant.

With respect to the content of such claims this section shall be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 8. Section 4, chapter 159, Laws of 1963 as last amended by section 4, chapter 151, Laws of 1979 and RCW 4.92.110 are each amended to read as follows:

No action shall be commenced against the state for damages arising out of tortious conduct until a claim has first been presented to and filed with the ~~((director of financial))~~ risk management office. The requirements of this section shall not affect the applicable period of limitations within which an action must be commenced, but such period shall begin and shall continue to run as if no claim were required.

Sec. 9. Section 10, chapter 159, Laws of 1963 as last amended by section 3, chapter 144, Laws of 1979 ex. sess. and RCW 4.92.160 are each amended to read as follows:

Payment of claims and judgments arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq. shall not be made by any agency or department of state government with the exception of the ~~((director of financial))~~ risk management office, and ~~((he))~~ that office shall authorize and direct the payment of moneys only from the tort claims revolving fund whenever:

(1) The head or governing body of any agency or department of state or the designee of any such agency certifies to ~~((him))~~ the risk management office that a claim has been settled under authority of RCW 4.92.140 as herein or hereafter amended; or

(2) The clerk of court has made and forwarded a certified copy of a final judgment in a court of competent jurisdiction and the attorney general certifies that the judgment is final and was entered in an action on a claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. Payment of a judgment shall be made to the clerk of the court for the benefit of the judgment creditors. Upon receipt of payment, the clerk shall satisfy the judgment against the state.

Sec. 10. Section 11, chapter 159, Laws of 1963 as last amended by section 6, chapter 151, Laws of 1979 and RCW 4.92.170 are each amended to read as follows:

Liability for and payment of claims arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. is declared to be a proper

charge as part of the normal cost of operating the various agencies and departments of state government whose operations and activities give rise to the liability and a lawful charge against moneys appropriated or available to such agencies and departments.

Within any agency or department the charge shall be apportioned among such appropriated and other available moneys in the same proportion that the moneys finance the activity causing liability. Whenever the operations and activities of more than one agency or department combine to give rise to a single liability, the ~~((director of financial))~~ risk management office shall determine the comparative responsibility of each agency or department for the liability.

State agencies shall make reimbursement to the tort claims revolving fund for any payment made from it for the benefit of such agencies. The director of financial management is authorized and directed to transfer or order the transfer to the tort claims revolving fund, from moneys available or appropriated to such agencies, that sum of money which is a proper charge against them. Such amounts may be expended for the purposes for which the tort claims revolving fund was created by RCW 4.92.130 (~~as herein or hereafter amended~~) without further or additional appropriation(~~(: PROVIDED, That)~~). In any case where reimbursement would seriously disrupt or prevent substantial performance of the operations or activities of the state agency, the director of financial management may relieve the agency of all or a portion of the obligation to make reimbursement.

The ~~((director of financial))~~ risk management office shall report on request to the legislature on the status of the tort claims revolving fund, all payments made therefrom, all reimbursements made thereto, and the identity of agencies and departments of state government whose operations and activities give rise to liability(~~(, including those agencies and departments over which he does not have authority to revise allotments under chapter 43.88 RCW)~~).

The ~~((director of financial))~~ risk management office may authorize agencies, in accordance with chapter 41.05 RCW to the extent that it is applicable, to purchase insurance to protect and hold personally harmless any officer or employee of the state, or any classes of such officers or employees or for other persons performing services for the state, whether by contract or otherwise, from any action, claim, or proceeding for damages arising out of the performance of duties for, employment with, or the performance of services on behalf of the state and to hold ~~((him))~~ the officer or employee harmless from any expenses connected with the defense, settlement, or monetary judgment from such actions.

The ~~((director of financial))~~ risk management office shall adopt rules ~~((and regulations))~~ governing the procedures to be followed in making payment from the tort claims revolving fund(~~(:)~~). The office of financial management shall adopt rules governing the procedures to be followed in

reimbursing the tort claims revolving fund and in relieving an agency of its obligation to reimburse the tort claims revolving fund.

Sec. 11. Section 77.12.270, chapter 36, Laws of 1955 as last amended by section 45, chapter 78, Laws of 1980 and RCW 77.12.270 are each amended to read as follows:

The commission may compromise, adjust, settle, and pay claims for damages caused by deer or elk in accordance with RCW 77.12.280 through 77.12.300. Payments for claims shall not exceed ~~((one))~~ two thousand dollars. The payment of a claim by the commission constitutes full and final payment for the claim.

Sec. 12. Section 77.12.280, chapter 36, Laws of 1955 as last amended by section 46, chapter 78, Laws of 1980 and RCW 77.12.280 are each amended to read as follows:

(1) Claims under RCW 77.12.270 ~~((not exceeding one thousand dollars))~~ may be filed ~~((with the director of financial management))~~ under RCW 4.92.040(5) if within one year of filing with the commission the claim is not settled and paid. ~~((Claims shall conform to the tort claim filing requirements in RCW 4.92.100 as now or hereafter amended.))~~ The ~~((director of financial))~~ risk management office shall recommend to the legislature whether the claim should be approved. If the legislature approves the claim, the department shall pay it from moneys appropriated for that purpose.

(2) If a claim for damages under RCW 77.12.270 has been refused or has not been settled and paid by the commission within one hundred twenty days of the filing of the claim, either the claimant or the commission may serve upon the other personally or by registered mail a notice of intent to arbitrate. The notice shall contain the name of an arbitrator. Within ten days of receiving the notice, the person served shall serve the name of an arbitrator personally or by registered mail upon the other party. The two arbitrators, within seven days of the naming of the second arbitrator, shall select a third arbitrator who shall not be an employee of the department or member of the commission. If the two arbitrators cannot agree upon a third arbitrator, either party may petition the superior court in the county in which the claim arose to select the third arbitrator. Upon receiving the petition, the court shall appoint a third arbitrator. Filing fees or court costs arising from the petition shall be shared equally by the claimant and the department.

(3) The award of the arbitrators is advisory only and shall be filed with the department within ninety days following the naming of the third arbitrator. Payment shall not be made by the commission until the arbitrators have made their advisory award.

NEW SECTION. Sec. 13. Section 4, chapter 140, Laws of 1969 and RCW 4.92.131 are each repealed.

Passed the Senate March 9, 1986.

Passed the House March 6, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 127

[Senate Bill No. 3018]

LIFE-CYCLE COST IN PUBLIC BUILDINGS

AN ACT Relating to life-cycle cost in public buildings; and adding a new chapter to Title 39 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that:

(1) Operating costs of a facility over its lifetime may greatly exceed the initial cost of the facility;

(2) In the planning, design, and funding for new construction or major renovation of state-owned facilities it is desirable to consider not only the initial costs relating to design and construction or acquisition, but the anticipated operating costs relating to the building throughout its life;

(3) The consideration of both initial and operating costs is known as life-cycle cost or life-cycle cost analysis;

(4) Operating costs of a facility for purposes of this act include, but are not limited to, energy costs, maintenance and repair costs, and costs of the work or activity performed within the facility, including wages and salaries;

(5) Current law, chapter 39.35 RCW, speaks to life-cycle cost analysis only in relation to energy conservation; and

(6) Life-cycle cost may not be suitable or cost-effective for all capital projects or all components of a facility, and is not an exclusive criteria for decision-making, but is nonetheless a useful framework for evaluating design and capital investment alternatives.

NEW SECTION. Sec. 2. The legislature declares that:

(1) It is the policy of the state to consider life-cycle costs in the selection of facility design alternatives, to the full extent practical, reasonable, and cost-effective;

(2) Life-cycle cost should be considered by the state government, school districts, and state universities and community colleges in the planning, design, and funding for new construction or major renovations; and

(3) Use of life-cycle cost should be encouraged for cities, counties, and other governmental districts including special purpose districts.

NEW SECTION. Sec. 3. It is the intent of the legislature to: