

James J. ...

81 LSO - 654

SENATE FILE 175,

SENATE FILE 175

Title:

AN ACT to amend W.S. 1-39-113(c), 1-39-115(a) and (b) and 1-39-118(b); and to repeal W.S. 1-39-118(c)(iii) relating to tort claims against governmental entities; requiring claims against the state to be forwarded to the department of administration and fiscal control to be investigated and settled by insurance companies if the claims are covered by insurance; clarifying that any risks may be insured even if a governmental entity is immune from liability for the risk; and providing for an effective date.

Introduced by:

DATE	ACTION	DATE	ACTION
1-28-81	INTRODUCED		Standing Com. Amendment SF175HS1/A City
	READ FIRST TIME		ADOPTED
	REFERRED TO COM. NO. <u>1</u>		RECOMMENDED DO.....PASS
	DELIVERED TO LSO FOR PRINTING	FEB 6 1981	READ SECOND TIME
	RETURNED FROM LSO FOR PRINTED	FEB 7 1981	READ THIRD TIME
	DELIVERED TO COM. NO. <u>1</u>		PASSED Ayes 58, Noes 3, Excused 1, Absent 0
2-5-81	STANDING COMM. REPORT		Sent to Senate
	RECOMMENDED DO PASS AS AMENDED	2-25-81	Received Amended
2-11-81	UNAMENDED IN COM. OF WHOLE		Senate did Concur on House Amendr Ayes 37, Noes 0, Excused 3, Absent 0
	STANDING COM. AMEND ADOPTED SF175CS1A		Delivered to Enrolling Section
	DO PASS		Received
2-18-81	READ SECOND TIME		Delivered to Enrolling Section 2/28 SEA No. 67, Signed by President
2-13-81	READ THIRD TIME		2/28 Signed by Speaker
	PASSED		2/24 Approved by Governor
	FEB 27 1981 AYES 37 NOES 0 ABSENT 0		Chapter No. 142, Session Laws of Wyoming
	SENT TO HOUSE		
2-13-81	ENGROSSED		
2-14-81	Sent to House		
FEB 14 1981	READ FIRST TIME		
	REFERRED TO COM. NO. <u>1</u>		
	DELIVERED TO COM. NO. <u>1</u>		
FEB 21 1981	RETURNED		
	Recommended Amend and Do Pass 10 aye		
FEB 25 1981	CONSIDERED IN COM. OF WHOLE		

Roll Call of the Senate of the FORTY-SIXTH LEGISLATURE of Wyoming

	Ayes	Noes	Excused	Absent
31 ARNEY	✓			
30 BOYLE	✓			
29 BUSSART	0		✓	
28 CHRISTENSEN	✓			
27 CUNDALL				
26 DAILY	✓			
25 DOWNING	✓			
24 FRISBY			✓	
23 GEIS	✓			
22 HICKEY	✓			
21 LARSON, R.	✓			
20 MAJHANOVICH	✓			
19 MOORE	✓			
18 NICHOLAS	0		✓	
17 NICHOLS	✓			
16 NORRIS	✓			
15 NORTHRUP	✓			
14 PARKS	✓			
13 PECK	✓			
12 PROFFIT	✓			
11 RECTOR	✓			
10 SADLER	✓			
9 SEDAR	✓			
8 STAFFORD	✓			
7 STROOCK	✓			
6 TAGGART	✓			
5 TRUE	✓			
4 TURNER	✓			
3 YOUTZ	✓			
2 ZIMMER	✓			
1 MR. PRESIDENT	✓			

PRESENT _____	AYES	27		
	NOES	0		
	EXCUSED	3		
	ABSENT	0		
	TOTAL	30		

Roll Call of the Senate of the FORTY-SIXTH LEGISLATURE of Wyoming

	Ayes	Noes	Excused	Absent
31 ARNEY	✓			
30 BOYLE	✓			
29 BUSSART	✓			
28 CHRISTENSEN	✓			
27 CUNDALL				
26 DAILY	✓			
25 DOWNING	✓			
24 FRISBY	✓			
23 GEIS	✓			
22 HICKEY	✓			
21 LARSON, R.	✓			
20 MAJHANOVICH	✓			
19 MOORE	✓			
18 NICHOLAS	✓			
17 NICHOLS	✓			
16 NORRIS	✓			
15 NORTHRUP	✓			
14 PARKS	✓			
13 PECK	✓			
12 PROFFIT	✓			
11 RECTOR	✓			
10 SADLER		✓		
9 SEDAR	✓			
8 STAFFORD	✓			
7 STROOCK	✓			
6 TAGGART		✓		
5 TRUE	✓			
4 TURNER	✓			
3 YOUTZ		✓		
2 ZIMMER	✓			
1 MR. PRESIDENT	✓			

PRESENT _____	AYES	27	
	NOES	3	
	EXCUSED	0	
	ABSENT	0	
	TOTAL	30	

87125

House Reading

Date 2/27/81

**Roll Call of the House
of the FORTY-SIXTH LEGISLATURE
of Wyoming**

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
63 ARNOLD	✓				30 PHELAN	✓			
62 ASAY	✓				29 PROSSER	✓			
61 BRYANT	✓				28 PUGH	✓	✓		
60 BUDD	✓				27 RATLIFF	✓			
59 BURNETT					26 ROTH	✓			
58 BURNS	✓				25 SALISBURY	✓			
57 BYRD	✓				24 SANDERS	✓			
56 CHAMBERLAIN	✓				23 SCHWOPE	✓			
55 CROSS	✓				22 SCOTT, C	✓			
54 CROWLEY	✓				21 SCOTT, D.			✓	
53 CURRY	✓				20 SHREVE	✓			
52 DONLEY	✓				19 SIDI	✓			
51 DUSL	✓				18 SIMONS	✓			
50 EDWARDS	✓				17 SIMPSON <i>of</i>			✓	
49 ESKENS	✓				16 SMITH	✓			
48 GETTER	✓				15 SORENSEN	✓			
47 HANSEN	✓				14 STAUFFER	✓			
46 HEMMERT	✓				13 STEWART	✓			
45 JENSEN	✓				12 STRAND			✓	
44 JONES	✓				11 TARTER	✓			
43 KINNISON	✓				10 THOMPSON	✓			
42 LARSON, T.	✓				9 THORSON	✓			
41 LUMMIS	✓				8 TIPTON	✓			
40 MacMILLAN	✓				7 TROWBRIDGE	✓			
39 MARTON	✓				6 URBIGKIT	✓			
38 McARTHUR	✓				5 VINICH	✓			
37 McILVAIN	✓				4 WALLIS	✓			
36 MEENAN	✓				3 WIEDERSPAHN	✓			
35 MICHELI	✓				2 WINNINGER	✓			
34 MICHIE	✓				1 MR. SPEAKER	✓			
33 MURPHY	✓				PRESENT _____				
32 ODDE	✓								
31 PERRY	✓								

AYES 58
 NOES 3
 EXCUSED 1
 ABSENT _____
 TOTAL 62
 LESS _____

THE LEGISLATURE OF THE STATE OF WYOMING
House of Representatives

Cheyenne, February 20, 19 81

SE 175 HS 1

Mr. Speaker:

TO ENG COPY

Your Committee No. 1 on JUDICIARY

to whom was referred S.F. No. 175 ENCROSSED

respectfully reports same back to the House with the recommendation that it

DO PASS with the following amendments:

Page 1 line 2 after "1-39-118(b)" insert "and to repeal W.S. 1-39-118(c)(iii)".

Page 4 between lines 7 and 8 insert "Section 2. W.S. 1-39-118(c)(iii) is repealed."

renumber subsequent section accordingly.

AYES NOES EXCUSED

- Chamberlain
- Hansen
- Lunnis
- McCarthy
- Odde
- Scott, C.
- Tipton
- Trowbridge
- Wiederspahn
- Crowley

0

0

Ellen Crowley

Chairman

ENGROSSED

1981

STATE OF WYOMING

81LS0-654/eng

SENATE FILE NO. 175

Sovereign immunity.

Sponsored by: Senator ARNEY and Representative CROWLEY

A BILL

for

1 AN ACT to amend W.S. 1-39-113(c), 1-39-115(a) and (b) and
2 1-39-118(b) relating to tort claims against governmental
3 entities; requiring claims against the state to be for-
4 warded to the department of administration of fiscal con-
5 trol to be investigated and settled by insurance companies
6 if the claims are covered by insurance; clarifying that
7 any risks may be insured even if a governmental entity is
8 immune from liability for the risk; and providing for an
9 effective date.

10 Be It Enacted by the Legislature of the State of Wyoming:

1 Section 1. W.S. 1-39-113(c), 1-39-115(a) and (b) and
2 1-39-118(b) are amended to read:

3 1-39-113. Claims procedure.

4 (c) Claims against the state shall be presented to
5 the state auditor WHO SHALL FORWARD A COPY OF THE CLAIM TO
6 THE INSURANCE CLAIMS DIVISION OF THE DEPARTMENT OF ADMIN-
7 ISTRATION AND FISCAL CONTROL. Claims against any other
8 governmental entity shall be filed at the business office
9 of that entity in duplicate and a copy of the claim shall
10 be forwarded by the entity to the secretary of state for
11 informational purposes. Failure to file the claim with the
12 secretary of state shall not invalidate the claim. In the
13 case of claims against local governments the claim submit-
14 ted need not be acted upon by the entity prior to suit.

15 1-39-115. Settlement of claims.

16 (a) Upon receipt of a claim against the state, the
17 ~~attorney-general shall investigate, hear and submit recom-~~
18 ~~mendations--for--each--claims--if--the--claim--is--covered--by~~
19 ~~insurance, the attorney-general, with the consent--of--the~~
20 ~~insurance--carrier, may settle the claim before or after~~
21 ~~investigation or he may tender the investigation and set-~~
22 ~~tlement--negotiations--to--the--insurance--carrier~~ INSURANCE

1 CLAIMS DIVISION OF THE DEPARTMENT OF ADMINISTRATION AND
2 FISCAL CONTROL SHALL SEND THE CLAIM TO THE INSURANCE
3 COMPANY INSURING THE RISK INVOLVED FOR INVESTIGATION AND
4 ADJUSTMENT. If the claim is not covered by insurance the
5 attorney general may settle the claim in amounts not to
6 exceed ten thousand dollars (\$10,000.00) per claim exclu-
7 sive of interest and costs. Any claim NOT COVERED BY
8 INSURANCE in excess of ten thousand dollars (\$10,000.00)
9 may be paid in amounts as approved by the governor upon
10 the advice of the attorney general. A decision whether or
11 not to settle any claim shall be rendered within one hun-
12 dred twenty (120) days after receipt of the claim.

13 (b) A claim shall be settled only if the damage
14 claimed was caused by such negligence on the part of the
15 state or its public employees as might entitle the claim-
16 ant to a judgment. Awards or settlements agreed to under
17 this section shall be paid by the insurance carrier, if
18 any. If there is no insurance coverage, awards or settle-
19 ments agreed to shall be paid from the state liability
20 revolving account earmarked revenue fund upon voucher sub-
21 mitted by the attorney general.

22 ~~1-39-118. Maximum liability; insurance authorized.~~

23 (b) A governmental entity is authorized to purchase

1 liability insurance coverage COVERING ANY ACTS OR RISKS
2 including all or any portion of the risks provided under
3 this act. If a governmental entity has insurance coverage
4 either exceeding the limits of liability as stated in this
5 section or covering liability which is not authorized by
6 this act, the governmental entity's liability is extended
7 to the coverage.

8 Section 2. This act is effective May 20, 1981.

9 (END)

House of Intro
 _____ To Com No. _____
 _____ Stand Report Do _____ Amd _____ Not _____
 _____ Com Whole Do _____ Amd _____ Not _____
 _____ 2nd Reading Amd _____
 _____ 3rd Reading Amd _____ Pass _____ Fail _____

Second House
 _____ To Com No. _____
 _____ Stand Report Do _____ Amd _____ Not _____
 _____ Com Whole Do _____ Amd _____ Not _____
 _____ 2nd Reading Amd _____
 _____ 3rd Reading Amd _____ Pass _____ Fail _____

INTRODUCED

1981

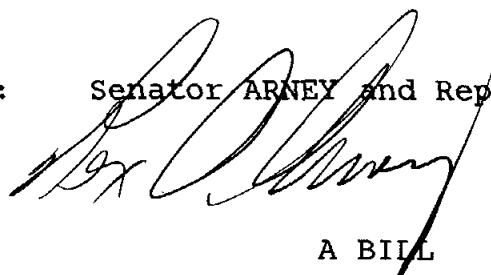
STATE OF WYOMING

81LSO-654.01

SENATE FILE NO. 175

Sovereign immunity.

Sponsored by: Senator ARNEY and Representative CROWLEY



A BILL

for

1 AN ACT to amend W.S. 1-39-113(c), 1-39-115(a) and (b) and
 2 1-39-118(b); and to repeal W.S. 1-39-118(c)(ii) and (iii)
 3 relating to tort claims against governmental entities;
 4 requiring claims against the state to be forwarded to the
 5 department of administration of fiscal control to be
 6 investigated and settled by insurance companies if the
 7 claims are covered by insurance; clarifying that any risks
 8 may be insured even if a governmental entity is immune
 9 from liability for the risk; eliminating a state adminis-
 10 tered local government assessment pool to pay tort claims
 11 and use of pooled funds; and providing for an effective

1 date.

2 Be It Enacted by the Legislature of the State of Wyoming:

3 Section 1. W.S. 1-39-113(c), 1-39-115(a) and (b) and
4 1-39-118(b) are amended to read:

5 1-39-113. Claims procedure.

6 (c) Claims against the state shall be presented to
7 the state auditor WHO SHALL FORWARD A COPY OF THE CLAIM TO
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9 ISTRATION AND FISCAL CONTROL. Claims against any other
10 governmental entity shall be filed at the business office
11 of that entity in duplicate and a copy of the claim shall
12 be forwarded by the entity to the secretary of state for
13 informational purposes. Failure to file the claim with the
14 secretary of state shall not invalidate the claim. In the
15 case of claims against local governments the claim submit-
16 ted need not be acted upon by the entity prior to suit.

17 1-39-115. Settlement of claims.

18 (a) Upon receipt of a claim against the state, the
19 ~~attorney-general shall investigate, hear and submit recom-~~
20 ~~mendations for each claim. If the claim is covered by~~
21 ~~insurance, the attorney general, with the consent of the~~

1 ~~insurance-carrier, may settle the claim--before--or--after~~
2 ~~investigation--or-he-may-tender-the-investigation-and-set-~~
3 ~~tlement-negotiations-to-the--insurance--carrier~~ INSURANCE
4 CLAIMS DIVISION OF THE DEPARTMENT OF ADMINISTRATION AND
5 FISCAL CONTROL SHALL SEND THE CLAIM TO THE INSURANCE
6 COMPANY INSURING THE RISK INVOLVED FOR INVESTIGATION AND
7 ADJUSTMENT. If the claim is not covered by insurance the
8 attorney general may settle the claim in amounts not to
9 exceed ten thousand dollars (\$10,000.00) per claim exclu-
10 sive of interest and costs. Any claim NOT COVERED BY
11 INSURANCE in excess of ten thousand dollars (\$10,000.00)
12 may be paid in amounts as approved by the governor upon
13 the advice of the attorney general. A decision whether or
14 not to settle any claim shall be rendered within one hun-
15 dred twenty (120) days after receipt of the claim.

16 (b) A AN UNINSURED claim shall be settled only if
17 the damage claimed was caused by such negligence on the
18 part of the state or its public employees as might entitle
19 the claimant to a judgment. Awards or settlements agreed
20 to under this section shall be paid by the insurance car-
21 rier, if any. If there is no insurance coverage, awards or
22 settlements agreed to shall be paid from the state liabil-
23 ity revolving account earmarked revenue fund upon voucher
24 submitted by the attorney general.

Sovereign immunity.

81LSO- 654.L2

FISCAL NOTE

Anticipated REVENUE to:	Fiscal Year 19	Fiscal Year 19
TOTAL ESTIMATED REVENUE		
Anticipated COST to:	Fiscal Year 19	Fiscal Year 19
TOTAL ESTIMATED COST		

No apparent fiscal or personnel impact.

✓ SF175S81/A

- ✓ ✓ Page 1-line 2 After "1-39-118(b)" delete the balance of the line.
- ✓ ✓ Page 1-line 9 After the semicolon delete the balance of the line.
- ✓ Page 1-line 10 Delete entirely.
- ✓ Page 1-line 11 Delete the line through the semicolon.
- ✓ ✓ Page 3-line 16 Restore stricken "A"; delete "AN UNINSURED".
- ✓ Page 4-lines 10 and 11 Delete entirely.
- ✓ Page 4-line 12 Delete "Section 3" and insert "Section 2".

-ARNEY

SF175HS1/A

TO ENGROSSED COPY

Kv-2-21-81

Page 1-line 2 After "1-39-118(b)" insert "; and to repeal
 W.S. 1-39-118(c)(iii)".

Page 4-between lines 7 and 8 Insert "Section 2. W.S.
 1-39-118(c)(iii) is repealed."; renumber
 subsequent section accordingly. -CROWLEY,
 CHAIRMAN

H