

Appropriations

98 LSO-1259

SENATE FILE

0237

SF0037

SENATE FILE 0237

AN ACT relating to governmental claims under the Wyoming Governmental Claims Act and the State Self-Insurance Program; specifying claims which may be brought against a governmental entity for actions of peace officers; specifying periods of limitation for commencing certain actions; excluding department of corrections employees from the definition of peace officer; eliminating references to employment relationships; specifying deductible limits to be paid by the employing entity for claims against peace officers; eliminating coverage for contract physicians in certain circumstances; specifying conditions for payment of claims involving peace officer pursuits; conforming provisions; and providing for an effective date.

Tom King

Introduced by:

SENATE ACTION ON SENATE FILE

- 219 ✓ Introduced
Aye ___ No ___ Ex ___ Ab ___
- Read First Time and Ref. to Committee No. ___
- ✗ Failed Introduction
Aye 18 No 11 Ex 4 Ab 0
- Returned from Committee No. ___
with Recommendation:
 Do Pass; Amend & Do Pass; Do Not Pass;
 W/O Recomm; Re-Refer to Committee No. ___
- Re-referred to Committee No. ___
- Returned from Committee No. ___
with Recommendation:
 Do Pass; Amend & Do Pass; Do Not Pass;
 W/O Recomm; Re-Refer to Committee No. ___
- Considered in Comm. of Whole
 Amended
 Recommended Do Pass
 Failed Comm. of Whole
 Indefinitely Postponed
 Other: _____
- Read Second Time
 Amended
 Do Pass
 Do Not Pass
 Accelerated to 3rd Rdg.
- Read Third Time
 Amended
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
 Held for Reconsideration
Motion to Reconsider
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
Third Reading Vote
(On Reconsideration)
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
- Sent to House (No Amendments)
- Sent to LSO for Engrossing
ENGROSSED
Sent to House

HOUSE ACTION ON SENATE FILE

- Received. Read First Time.
- Referred to Committee No. ___
- Returned from Committee No. ___
with Recommendation:
 Do Pass; Amend & Do Pass; Do Not Pass;
 W/O Recomm; Re-Refer to Committee No. ___
- Re-referred to Committee No. ___
- Returned from Committee No. ___
with Recommendation:
 Do Pass; Amend & Do Pass; Do Not Pass;
 W/O Recomm; Re-Refer to Committee No. ___
- Considered in Comm. of Whole
 Amended
 Recommended Do Pass
 Failed Comm. of Whole
 Indefinitely Postponed
 Other: _____
- Read Second Time
 Amended
 Do Pass
 Do Not Pass
 Accelerated to 3rd Rdg.
- Read Third Time
 Amended
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
 Held for Reconsideration
Motion to Reconsider
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
Third Reading Vote
(On Reconsideration)
 Passed Failed
Aye ___ No ___ Ex ___ Ab ___
- Sent to Senate
- Sent for Enrolling
SEA No. ___
- Signed by President
- Signed by Speaker
- Approved by Governor
- Chapter No. ___

54TH WYOMING STATE LEGISLATURE
SPECIAL SESSION 1998

SENATE

SEQUENCE : 16

FEBRUARY 9 1998

BILL : SF0037
AMENDMENT:

2:31 PM

MOVED BY : APPROPRIATIONS SECONDED BY:
TITLE1 :
TITLE2 :
ACTION : INTRODUCTION

BARTON.....	A	
CAMERON.....		N
CATHCART.....	A	
COE.....		N
DEVIN.....	A	
ERB.....	A	
GEIS.....		E
GILBERTZ.....	A	
GOODENOUGH.....	A	
HARRIS.....	A	
HAWKS.....	A	
JOB.....	A	
KINNISON.....	A	
KUNZ.....		N
LARSON.....		N
LAWLER.....	A	
MEIER.....		N
MILLER.....	A	
MOCKLER.....		N
PECK.....	A	
PHILLIPS.....		N
PICARD.....		N
ROBERTS.....		N
SARCLETTI.....	A	
SCHIFFER.....	A	
SCOTT.....		N
TWIFORD.....	A	
VINICH.....		N
ZIMMERMAN.....	A	
GRIEVE/MR. PRES.	A	

VOTE REQ: 2/3 OF MEMBERSHIP REQUIRED

AYES : 18
NOES : 11
EXCUSED : 1
ABSENT : 0
CONFLICT: 0

A=AYE N=NO E=EXCUSED
X=ABSENT C=CONFLICT

SENATE FILE NO. SF0037

Governmental claims-amends.

Sponsored by: Joint Appropriations Interim Committee

A BILL

for

1 AN ACT relating to governmental claims under the Wyoming
2 Governmental Claims Act and the State Self-Insurance
3 Program; specifying claims which may be brought against a
4 governmental entity for actions of peace officers;
5 specifying periods of limitation for commencing certain
6 actions; excluding department of corrections employees from
7 the definition of peace officer; eliminating references to
8 employment relationships; specifying deductible limits to be
9 paid by the employing entity for claims against peace
10 officers; eliminating coverage for contract physicians in
11 certain circumstances; specifying conditions for payment of
12 claims involving peace officer pursuits; conforming
13 provisions; and providing for an effective date.

14

15 *Be It Enacted by the Legislature of the State of Wyoming:*

16

17 **Section 1.** W.S. 1-39-103(a)(iii) and (iv)(C),
18 1-39-112, 1-39-113(a), 1-41-102(a)(v)(C) and
19 1-41-103(c)(iii)(B) through (D) and by creating new

1 subparagraphs (E) and (F) and (iv)(A) through (C) and by
2 creating new subparagraphs (D) and (E) are amended to read:

3

4 **1-39-103. Definitions.**

5

6 (a) As used in this act:

7

8 (iii) "Peace officer" means as defined by W.S.
9 7-2-101, but does not include employees of the department of
10 corrections employed in any state penal institution,
11 facility or program;

12

13 (iv) "Public employee":

14

15 (C) Includes contract physicians in the
16 course of providing contract services for state
17 institutions, provided the contract does not require the
18 physician or his employer to carry medical malpractice
19 insurance coverage up to the limits specified in W.S.
20 1-39-110(b) or 1-39-118(a) as applicable;

21

22 **1-39-112. Liability; peace officers.**

23

24 A governmental entity is liable for damages resulting from
25 bodily injury, wrongful death or property damage arising out

1 of the tortious conduct of peace officers while acting
2 within the scope of their duties while enforcing the
3 criminal laws of the state or local government entity. This
4 does not include acts which are administrative in nature or
5 relate to the management of personnel within the law
6 enforcement agency.

7

8 **1-39-113. Claims procedure.**

9

10 (a) No action shall be brought under this act against
11 a governmental entity unless the claim upon which the action
12 is based is presented to the entity as an itemized statement
13 in writing within ~~two (2) years~~ one (1) year of the date of
14 the alleged act, error or omission, except that a cause of
15 action may be instituted not more than ~~two (2) years~~ one (1)
16 year after discovery of the alleged act, error or omission,
17 if the claimant can establish that the alleged act, error or
18 omission was:

19

20 (i) Not reasonably discoverable within a ~~two (2)~~
21 one (1) year period; or

22

23 (ii) The claimant failed to discover the alleged
24 act, error or omission within the ~~two (2)~~ one (1) year
25 period despite the exercise of due diligence.

1

2 **1-41-102. Definitions.**

3

4 (a) As used in this act:

5

6 (v) "Public employee" means any officer, employee
7 or servant of the state, provided the term:

8

9 (c) Includes contract physicians in the
10 course of providing contract services for state
11 institutions, provided the contract does not require the
12 physician or his employer to carry medical malpractice
13 insurance coverage up to the limits specified in W.S.
14 1-39-110(b) or 1-39-118(a) as applicable.

15

16 **1-41-103. Self-insurance account; creation; authorized**
17 **payments.**

18

19 (c) Expenditures shall be made out of the self-
20 insurance account for the following claims which have been
21 settled or reduced to final judgment:

22

23 (iii) Claims against a peace officer employed by
24 the Wyoming state board of outfitters and professional

1 guides, the University of Wyoming or a local government
2 brought under the Wyoming Governmental Claims Act, provided:

3

4 (B) The indemnification for the judgment
5 shall not exceed the limits provided by W.S. 1-39-118; and

6

7 (C) Any amount up to ~~twenty thousand dollars~~
8 ~~(\$20,000.00)~~ ten thousand dollars (\$10,000.00) paid for or
9 in defense of each claim shall be ~~paid on a dollar for~~
10 ~~dollar matching basis from the fund and from~~ reimbursed to
11 the self-insurance account by the University of Wyoming or
12 the local government employing the peace officers; and

13

14 (D) Any amount up to twenty thousand dollars
15 (\$20,000.00) paid for or in defense of each claim against a
16 peace officer employed by the Wyoming state board of
17 outfitters and professional guides shall be ~~paid~~ reimbursed
18 to the self-insurance account by the board;

19

20 (E) The act is one arising while the peace
21 officer is enforcing the criminal laws of the state or local
22 government entity. This does not include acts which are
23 administrative in nature or relate to the management of
24 personnel within the law enforcement agency; and

25

1 (F) If the claim for damages arises out of
2 the conduct of a peace officer engaged in the pursuit of the
3 driver of a motor vehicle suspected of fleeing or attempting
4 to elude the officer in violation of W.S. 31-5-225, claims
5 may be paid out of the account only if the entity employing
6 the peace officer has in effect on the date the claim for
7 damages arises a written policy or directive governing
8 pursuit procedures and the policy is on file with the risk
9 manager on that date.

10

11 (iv) Claims against a peace officer employed by
12 the Wyoming state board of outfitters and professional
13 guides, the University of Wyoming or a local government
14 arising under 42 U.S.C. 1983 or other federal statutes,
15 provided:

16

17 (A) Any amount up to ~~twenty thousand dollars~~
18 ~~(\$20,000.00)~~ ten thousand dollars (\$10,000.00) paid from the
19 account for or in defense of each claim shall be ~~paid on a~~
20 ~~dollar for dollar matching basis from the fund and from~~
21 reimbursed to the self-insurance account by the University
22 of Wyoming or the local government employing the peace
23 officer;

24

1 (B) Any amount up to twenty thousand dollars
2 (\$20,000.00) paid for or in defense of each claim against a
3 peace officer employed by the Wyoming state board of
4 outfitters and professional guides shall be ~~paid~~ reimbursed
5 to the self-insurance account by the board; ~~and~~

6

7 (C) The conditions and limitations of
8 subsection (e) of this section apply to all claims under
9 this paragraph; ~~and~~

10

11 (D) The act is one arising while the peace
12 officer is enforcing the criminal laws of the state or local
13 government entity. This does not include acts which are
14 administrative in nature or relate to the management of
15 personnel within the law enforcement agency; and

16

17 (E) If the claim for damages arises out of
18 the conduct of a peace officer engaged in the pursuit of the
19 driver of a motor vehicle suspected of fleeing or attempting
20 to elude the officer in violation of W.S. 31-5-225, claims
21 may be paid out of the account only if the entity employing
22 the peace officer has in effect on the date the claim for
23 damages arises a written policy or directive governing
24 pursuit procedures and the policy is on file with the risk
25 manager on that date.

1

2 **Section 2.** W.S. 1-39-119 is repealed.

3

4 **Section 3.** This act is effective July 1, 1998.

5

6

(END)

FISCAL NOTE

The fiscal impact is indeterminable due to an unknown number of cases and the nature and extent of potential state liability.

For example, defense costs and settlements paid out during FY 1993 and 1995 for employment claims on behalf of peace officers totaled \$275,970. There were no employment claims filed against peace officers for FY 1994. (FY 1995, 1996 and 1997 are not closed out at this time.) Passing this legislation could have a significant impact on the amount of monies spent on peace officer claims and lawsuits; however, it is not possible to predict the magnitude and timing of potential expenditure reductions.

Prepared by: Renee K. Pettinato

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