

**RCW 4.96.020**

**Tortious conduct of local governmental entities and their agents — Claims — Presentment and filing — Contents.**

\*\*\* CHANGE IN 2009 \*\*\* (SEE 1553-S.SL) \*\*\*

(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. 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) All claims for damages arising out of tortious conduct must locate and 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 the claim in the time prescribed or if the claimant is a minor, or is a nonresident of the state absent therefrom during the time within which the claim is required to be filed, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the claimant.

(4) No action 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 days have elapsed after the claim has first been presented to and filed with the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty-day period.

[2006 c 82 § 3; 2001 c 119 § 2; 1993 c 449 § 3; 1967 c 164 § 4.]

**Notes:**

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

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1553**

Chapter 433, Laws of 2009

61st Legislature  
2009 Regular Session

CLAIMS AGAINST THE STATE AND LOCAL GOVERNMENTS

EFFECTIVE DATE: 07/26/09

Passed by the House April 24, 2009  
Yeas 93 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate April 22, 2009  
Yeas 35 Nays 12

BRAD OWEN

**President of the Senate**

Approved May 11, 2009, 2:37 p.m.

CHRISTINE GREGOIRE

**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1553** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

**Chief Clerk**

FILED

May 11, 2009

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE HOUSE BILL 1553

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AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington

61st Legislature

2009 Regular Session

By House Judiciary (originally sponsored by Representatives Takko, Goodman, Williams, Hurst, Pedersen, and Campbell)

READ FIRST TIME 02/17/09.

1 AN ACT Relating to claims for damages against the state and local  
2 governmental entities; and amending RCW 4.96.020, 4.92.100, and  
3 4.92.110.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 4.96.020 and 2006 c 82 s 3 are each amended to read as  
6 follows:

7 (1) The provisions of this section apply to claims for damages  
8 against all local governmental entities and their officers, employees,  
9 or volunteers, acting in such capacity, except that claims involving  
10 injuries from health care are governed solely by the procedures set  
11 forth in chapter 7.70 RCW and are exempt from this chapter.

12 (2) The governing body of each local governmental entity shall  
13 appoint an agent to receive any claim for damages made under this  
14 chapter. The identity of the agent and the address where he or she may  
15 be reached during the normal business hours of the local governmental  
16 entity are public records and shall be recorded with the auditor of the  
17 county in which the entity is located. All claims for damages against  
18 a local governmental entity, or against any local governmental entity's  
19 officers, employees, or volunteers, acting in such capacity, shall be

1 presented to the agent within the applicable period of limitations  
2 within which an action must be commenced. A claim is deemed presented  
3 when the claim form is delivered in person or is received by the agent  
4 by regular mail, registered mail, or certified mail, with return  
5 receipt requested, to the agent or other person designated to accept  
6 delivery at the agent's office. The failure of a local governmental  
7 entity to comply with the requirements of this section precludes that  
8 local governmental entity from raising a defense under this chapter.

9 ~~(3) ((All claims for damages arising out of tortious conduct must~~  
10 ~~locate and describe the conduct and circumstances which brought about~~  
11 ~~the injury or damage, describe the injury or damage, state the time and~~  
12 ~~place the injury or damage occurred, state the names of all persons~~  
13 ~~involved, if known, and shall contain the amount of damages claimed,~~  
14 ~~together with a statement of the actual residence of the claimant at~~  
15 ~~the time of presenting and filing the claim and for a period of six~~  
16 ~~months immediately prior to the time the claim arose. If the claimant~~  
17 ~~is incapacitated from verifying, presenting, and filing the claim in~~  
18 ~~the time prescribed or if the claimant is a minor, or is a nonresident~~  
19 ~~of the state absent therefrom during the time within which the claim is~~  
20 ~~required to be filed, the claim may be verified, presented, and filed~~  
21 ~~on behalf of the claimant by any relative, attorney, or agent~~  
22 ~~representing the claimant.))~~ For claims for damages presented after the  
23 effective date of this section, all claims for damages must be  
24 presented on the standard tort claim form that is maintained by the  
25 risk management division of the office of financial management, except  
26 as allowed under (c) of this subsection. The standard tort claim form  
27 must be posted on the office of financial management's web site.

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

30 (i) The claimant's name, date of birth, and contact information;

31 (ii) A description of the conduct and the circumstances that  
32 brought about the injury or damage;

33 (iii) A description of the injury or damage;

34 (iv) A statement of the time and place that the injury or damage  
35 occurred;

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

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

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

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

4 (i) By the claimant, verifying the claim;

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

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

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

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

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

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

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

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

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

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

35 (4) No action subject to the claim filing requirements of this  
36 section shall be commenced against any local governmental entity, or  
37 against any local governmental entity's officers, employees, or  
38 volunteers, acting in such capacity, for damages arising out of

1 tortious conduct until sixty calendar days have elapsed after the claim  
2 has first been presented to ~~((and-filed-with))~~ the agent of the  
3 governing body thereof. The applicable period of limitations within  
4 which an action must be commenced shall be tolled during the sixty~~(-)~~  
5 calendar day period. For the purposes of the applicable period of  
6 limitations, an action commenced within five court days after the sixty  
7 calendar day period has elapsed is deemed to have been presented on the  
8 first day after the sixty calendar day period elapsed.

9 (5) With respect to the content of claims under this section and  
10 all procedural requirements in this section, this section must be  
11 liberally construed so that substantial compliance will be deemed  
12 satisfactory.

13 **Sec. 2.** RCW 4.92.100 and 2006 c 82 s 1 are each amended to read as  
14 follows:

15 (1) All claims against the state, or against the state's officers,  
16 employees, or volunteers, acting in such capacity, for damages arising  
17 out of tortious conduct, except for claims involving injuries from  
18 health care, shall be presented to ~~((and-filed-with))~~ the risk  
19 management division. ~~((All such claims shall be verified and shall~~  
20 accurately describe the conduct and circumstances which brought about  
21 the injury or damage, describe the injury or damage, state the time and  
22 place the injury or damage occurred, state the names of all persons  
23 involved, if known, and shall contain the amount of damages claimed,  
24 together with a statement of the actual residence of the claimant at  
25 the time of presenting and filing the claim and for a period of six  
26 months immediately prior to the time the claim arose. If the claimant  
27 is incapacitated from verifying, presenting, and filing the claim or if  
28 the claimant is a minor, or is a nonresident of the state, the claim  
29 may be verified, presented, and filed on behalf of the claimant by any  
30 relative, - attorney, - or - agent - representing - the - claimant.)) Claims  
31 involving injuries from health care are governed solely by the  
32 procedures set forth in chapter 7.70 RCW and are exempt from this  
33 chapter. A claim is deemed presented when the claim form is delivered  
34 in person or by regular mail, registered mail, or certified mail, with  
35 return receipt requested, to the risk management division. For claims  
36 for damages presented after the effective date of this section, all  
37 claims for damages must be presented on the standard tort claim form

1 that is maintained by the risk management division. The standard tort  
2 claim form must be posted on the office of financial management's web  
3 site.

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

6 (i) The claimant's name, date of birth, and contact information;

7 (ii) A description of the conduct and the circumstances that  
8 brought about the injury or damage;

9 (iii) A description of the injury or damage;

10 (iv) A statement of the time and place that the injury or damage  
11 occurred;

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

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

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

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

18 (i) By the claimant, verifying the claim;

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

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

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

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

27 (2) The state shall make available the standard tort claim form  
28 described in this section with instructions on how the form is to be  
29 presented and the name, address, and business hours of the risk  
30 management division. The standard tort claim form must not list the  
31 claimant's social security number and must not require information not  
32 specified under this section.

33 (3) With respect to the content of ((such)) claims under this  
34 section and all procedural requirements in this section, this section  
35 ((shall)) must be liberally construed so that substantial compliance  
36 will be deemed satisfactory.

1       **Sec. 3.** RCW 4.92.110 and 2006 c 82 s 2 are each amended to read as  
2 follows:

3       No action subject to the claim filing requirements of RCW 4.92.100  
4 shall be commenced against the state, or against any state officer,  
5 employee, or volunteer, acting in such capacity, for damages arising  
6 out of tortious conduct until sixty calendar days have elapsed after  
7 the claim is presented to (~~and filed with~~) the risk management  
8 division. The applicable period of limitations within which an action  
9 must be commenced shall be tolled during the sixty(-) calendar day  
10 period. For the purposes of the applicable period of limitations, an  
11 action commenced within five court days after the sixty calendar day  
12 period has elapsed is deemed to have been presented on the first day  
13 after the sixty calendar day period elapsed.

Passed by the House April 24, 2009.

Passed by the Senate April 22, 2009.

Approved by the Governor May 11, 2009.

Filed in Office of Secretary of State May 11, 2009.

# FINAL BILL REPORT

## ESHB 1553

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Synopsis as Enacted

**Brief Description:** Addressing claims for damages against the state and local governmental entities.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Takko, Goodman, Williams, Hurst, Pedersen and Campbell).

**House Committee on Judiciary**  
**Senate Committee on Government Operations & Elections**

### **Background:**

A person may not commence a tort claim in court against either the state or a local government until the claimant complies with certain notice requirements established in statute, called the "claim filing statute." One of the purposes of the claim filing statute is to allow local governments time to investigate, evaluate, and settle claims prior to the instigation of a civil proceeding.

A tort claim against the state must be presented to and filed with the Risk Management Division of the Office of Financial Management (OFM). A tort claim against a local governmental entity must be presented to an agent designated by the local governmental entity to receive the claims.

The claim must accurately describe the injury or damages, the conduct or circumstances that brought about the injury or damage, the names of all persons involved, and the amount of damages claimed. A claimant may not commence a civil tort action against the state, or against a local governmental entity, until 60 days after the claim is filed. The statute of limitations for the claim is tolled during this 60-day period.

The claimant is required to verify, present, and file the claim with the state or local government. However, if the claimant is incapacitated, is a minor, or is a nonresident of the state who is absent when the claim is required to be filed, the claim may be verified, presented, and filed by any relative, attorney, or agent representing the claimant.

Substantial compliance with respect to the contents of the claim is sufficient. The claim filing statute for the state specifically provides that with respect to the content, the statute

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

should be liberally construed so that substantial compliance is sufficient. However, the courts have generally required strict compliance with the procedural requirements of the claim filing statute and failure to strictly comply leads to dismissal of the action.

Procedures for filing claims for injuries resulting from health care are governed under a separate chapter of the Revised Code of Washington.

**Summary:**

Claims against the state must be presented on a standard tort claim form. The form must be maintained by the OFM and put on its website. Claims against local governments may be presented on either the standard tort claim form or a form provided by the local government. Local governments and the state must make the standard form available with instructions on how the form is to be presented along with the name, address, and business hours of the agent authorized to receive the claim. The claim form must not list the claimant's social security number and may not require information that is not specified in the statute. The amount of damages stated on the claim form is not admissible at trial.

For claims against local governments, a claim is deemed presented when the form is delivered in person or received by the agent, by regular mail, registered mail, or by certified mail, with return receipt requested. For claims against the state, presentation of the claim is accomplished by service upon the agent or by registered mail.

For claims against local governments, if the claim form fails to seek the information specified in the statute or incorrectly lists the agent to whom the claim is to be filed, the local government is deemed to have waived any defense related to the failure to provide that specific information or to file with the proper agent.

The claimant does not have to provide his or her residential address six months prior to the time the claim arose, but must state his or her actual residence at the time the claim arose. The claim must be signed either by the claimant (who must also verify the claim), by the claimant's attorney-in-fact under a power of attorney, by an attorney licensed to practice in Washington, or by a court-approved guardian or guardian ad litem on behalf of the claimant.

An action commenced within five court days after the 60-calendar-day period has elapsed will be deemed to have been presented on the first day after the 60-calendar-day period.

The claim filing statutes do not apply to claims based on injuries from health care. The procedures established under the medical malpractice statutes apply to those claims.

The claim filing statutes are to be liberally construed with respect to the procedural requirements of the statute and substantial compliance will be deemed satisfactory.

**Votes on Final Passage:**

House	96	0	
Senate	39	9	(Senate amended)
Senate	35	12	(Senate amended)

House 93 0 (House concurred)

**Effective:** July 26, 2009