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WASHINGTON STATE ASSOCIATION of COUNTIES

Under Pressure
The Liability Plight for Washington Counties

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Executive Summary

Washington operates under one of the broadest local government tort liability frameworks in the nation. Since the Legislature waived sovereign immunity for state government in 1961 and extended that waiver to all political subdivisions in 1967, counties and other local governments have faced expanding legal exposure with no damage caps, no partial immunities, and no special administrative review – features most other states retained when waiving immunity.

What began as a broadly supported, bipartisan effort to ensure injured residents could seek fair compensation has produced significant, costly unintended consequences. Case law has dramatically expanded local government liability beyond original legislative intent. The Washington Supreme Court's 1989 ruling in *Sofie v. Fibreboard Corp.* struck down the Legislature's attempt at damage caps as unconstitutional, effectively foreclosing that avenue for reform without a constitutional amendment. A 2023 ruling in *Norg v. City of Seattle* further expanded county liability by limiting the protective reach of the public duty doctrine.

The financial consequences are severe and accelerating. Claims submitted to the Washington Counties Risk Pool annually have increased by more than 60% since 2021. Self-insured retention requirements have risen by 4,000% since 2018, from $100,000 to $4 million per claim. Liability insurance premiums have increased by over 380% during the same period. Some county activities are no longer insurable at any price. The costs are ultimately borne by local taxpayers either through higher taxes or reduced public services.

Unlike private businesses, local governments cannot exit high-risk activities. The Legislature mandates their services, and no other entity provides them. This white paper examines the legal history, current liability landscape, and comparisons with other states. It also considers potential reform strategies, such as strengthening sovereign immunity, implementing damage caps through constitutional amendment, reforming joint and several liability rules, and creating an alternative tribunal process modeled on Ohio's Court of Claims.

Key Points

1 Washington's Liability Framework is Uniquely Broad

- Washington's 1967 waiver of sovereign immunity for local governments is broader than any other state's. It includes no damage caps, no partial immunities, and no administrative pre-screening of claims.
- At least 33 states cap damages in lawsuits against government entities; at least 29 prohibit punitive damages against public entities. Washington prohibits punitive damages but has no caps on compensatory damages.
- The Legislature likely did not intend to create liability for core governmental functions. Courts subsequently interpreted the waiver far more broadly than anticipated.

2 Judicial Decisions Have Progressively Expanded Liability

- *Sofie v. Fibreboard Corp.* (1989) struck down legislative damage caps as an unconstitutional violation of the right to jury trial, eliminating a critical cost-control tool.
- *Norg v. City of Seattle* (2023) significantly narrowed the public duty doctrine, opening counties to common law negligence claims that were previously barred. This was the most significant single expansion of county tort liability in decades.
- *Essex v. Grant County Public Hospital District* (2024) established nondelegable duties for public hospitals, meaning contracted services can no longer fully shield counties from liability.

3 Insurance Costs are Reaching Crisis Levels

- Claims submitted to the Washington Counties Risk Pool have risen by more than 60% since 2020-21.
- Self-insured retention requirements have jumped from $100,000 per claim in 2018 to $4 million in 2026 – a 4,000% increase.
- Private insurance premiums for risk pool members have increased by over 380% since 2018; total member assessments have risen nearly 400%.
- Some county functions, including Public Records Act compliance, are no longer insurable at any price.

4 Emerging High-Risk Liability Areas are Growing

- Childhood sexual abuse claims: Effective June 2024, Washington removed the statute of limitations on civil claims based on intentional conduct. One county has already received over $500 million in claims. Counties support appropriately compensating victims in such cases. However, without help and the inability to defend in many instances because records are no longer available for decades old cases, some counties are facing extreme penalties.
- Law enforcement: Washington's 2021 police accountability legislation raised use-of-force standards and expanded documentation requirements. Federal §1983 civil rights claims bypass state proportionate liability protections.
- Jail medical services: Costs have more than tripled in some counties; private insurers are exiting the correctional healthcare market, leaving counties with extremely limited and expensive options.
- Road and infrastructure: No liability immunity exists even when counties demonstrate compliance with professional standards. State underfunding of road maintenance increases county exposure.

5 Reform Options Exist but Face Legal and Political Hurdles

- Strengthening sovereign immunity through clarifying legislation could restore the original intent that the waiver applies to proprietary rather than purely governmental functions.
- Implementing damage caps likely requires a constitutional amendment, given the Sofie ruling; however, caps indexed to inflation, similar to Colorado, could provide meaningful and durable protection.
- Stricter proportionate liability reforms, such as eliminating the no-fault-plaintiff exception or adopting Texas or New Jersey-style thresholds, could provide relief in compliance with the Sofie ruling, since the right to a jury trial does not apply to non-jury proceedings.

Introduction

The legal framework regarding local government liability in Washington is notably broader than that adopted in most other states. Washington's statute contains no partial immunities, no caps on claims or damages, and no special administrative review of claims – features most other states retained when they waived immunity. No other state has a waiver of **sovereign immunity** as broad as Washington's.

Sovereign Immunity

A common law doctrine that protects a sovereign state or government from being sued in its own courts without its explicit consent. Rooted in the English principle that "the King can do no wrong," the rule prevents citizens from holding the government financially or legally liable for its actions.[i] In a modern representative democracy, the concept recognizes the collective nature of government and that liability is borne by all taxpayers.

Washington's initial actions to reform state and local government liability in the 1960s – waiving sovereign immunity and creating a system considered fairer to alleged victims of government negligence – were widely supported when enacted. The action received bipartisan legislative support. Still today, members of the legislature and other elected leaders publicly herald Washington's flexible and open legal avenues for victims to seek full compensation for their injuries.

While ensuring a system that properly cares for victims is accessible is inarguably a benefit, Washington's legal framework for local government liability is responsible for significant, costly unintended consequences. Claims and costs have increased far beyond predictions, and local government liability insurance rates have risen 5-fold in recent years, if insurance is still available. Case law since sovereign immunity was waived has dramatically expanded local government liability well beyond anything previously experienced or predicted. At the same time, the legislature continues to expand local government responsibilities, creating new liabilities.

The legislature has studied this issue on several occasions over the last 50 years. In 1984, the Attorney General wrote a letter to legislative leaders suggesting that they consider immunity for certain government functions. The letter emphasized that the loss of almost all discretionary immunity created extensive liability for public employees' judgment calls in areas such as design, law enforcement, and social services.[ii] While the legislature has at times responded to concerns about local government liability, the courts have often either struck down actions as unconstitutional or severely undermined any benefits through case law.

The work of local government is inherently risky. It is also mandated by the legislature. Unlike private entities, local government is not free to simply cease work that creates a risk of liability. They provide mandated services that residents and society need and that no other entity provides. Frequently, higher risk activities – such as police, firefighters, jails, etc. – are primary functions that government provides specifically because they are too risky for private industry. Washington's expansive liability for purely governmental functions and decisions has produced high legal defense costs and increasing tort payouts, financed by taxpayers at the expense of other services, raising the question of whether such a system is in the public interest.

Washington's Existing Legal Framework for Local Government Liability

A single chapter of the Revised Code of Washington (RCW) forms the legal backbone of county tort liability:

RCW 4.96 – Actions Against Political Subdivisions

This is the primary statute governing tort claims against counties and other local governments. Under RCW 4.96.010(1), "All local government entities, whether acting in a governmental or proprietary capacity, shall be liable for damages arising out of their tortious conduct, or the tortious conduct of their past or present officers, employees, or volunteers while performing or in good faith purporting to perform their official duties, to the same extent as if they were a private person or corporation." Filing a claim for damages within the time frame allowed by law is a condition precedent to commencing any action.[iii]

Claim Filing Requirements (RCW 4.96.020)

Before a lawsuit may be filed against a county, claimants must satisfy strict procedural requirements:

- All claims must be submitted on the Standard Tort Claim Form maintained by the Washington State Office of Risk Management (ORM), Department of Enterprise Services.
- The claim must be presented to the designated agent of the county's governing body – an agent whose identity must be recorded with the county auditor as a public record.
- No lawsuit may be filed until at least 60 calendar days have elapsed after the claim is presented to the county's designated agent.
- Claims must be filed within the applicable statute of limitations (generally three years for most personal injury claims under RCW 4.16.080).

It is worth noting that this process is largely procedural, and does not provide any tort relief in and of itself.

Immunity Doctrines that Protect Counties

Even within the broad liability framework, Washington law preserves several important immunities.

Discretionary Function Immunity

Counties retain immunity for high-level policymaking decisions. To qualify, a governmental act must: (1) involve a basic governmental policy, program, or objective; (2) be essential to the realization of that policy; (3) require the exercise of basic policy judgment and expertise, and (4) be within the county's authority to make.[iv]

Public Duty Doctrine

This doctrine holds that a duty owed to the public at large is not a duty owed to any specific individual. To recover from a county for negligent exercise of a governmental function, a plaintiff must prove the county owed a particularized duty to that individual, not merely a general duty to the public. Historically, this provided strong protection for counties in areas like code enforcement, road maintenance, and emergency response. Over time, however, the doctrine's protection has been significantly eroded. Four exceptions can defeat the doctrine:

1. clear legislative intent to protect a class of persons;
2. the failure to enforce exception (if the county fails to enforce a statute designed to protect a certain class of individuals, the county had actual knowledge of a violation, and the failure leads to harm);
3. the rescue doctrine (if a county's negligence creates a dangerous situation that puts someone in peril, it is liable for any injuries or damages sustained by a third party who attempts to rescue the imperiled person); or
4. the special relationship exception (where the government made direct, express assurances to an individual).[v]

Absolute Immunity

Legislators,[vi] judges,[vii] and prosecutors[viii] enjoy absolute immunity when engaged in the core duties of their offices.

History of Local Government Liability Law in Washington

The doctrine of sovereign immunity was for decades the controlling rule in Washington. It is the government's right to be free from suit or liability since it acts on behalf of the people.[ix] Both state and federal courts consistently applied the doctrine after the United States became a nation.[x] Courts recognized sovereign immunity as a prudent protection of government functions and taxpayer funds.[xi]

Prior to 1961, the state had complete immunity, and cities enjoyed broad immunity when performing governmental functions. This meant that individuals injured by state and city road defects, negligent corrections operations, unsafe government buildings, or careless employees had no legal remedy. The result was widely perceived as unjust, particularly as government activity expanded dramatically in the mid-20th century and the range of public services touching residents' everyday lives grew correspondingly. Even the courts were urging the Legislature to act, waiving immunity.

At the same time, counties had no immunity. However, the lack of immunity for local governments did not produce broad liability.[xii] Suits against local governments were for routine torts caused directly by acts or omissions of public employees, such as failure to repair roads and sidewalks.[xiii] The few cases that imposed broader liability stand out as deviations.[xiv]

The limited, or in the case of counties, lack of local government immunity from liability before 1961, was consistent with common law doctrines at that time.[xv] Prior to the mid-1960s, courts adhered to "classical" tort law, which had stable concepts of fault, causation, and damages that kept tort liabilities within well-defined parameters. Tort law changed dramatically in the subsequent 20-year period, with courts adopting a "neoclassical" approach, influenced by enterprise liability and risk spreading.[xvi] Under neoclassical law, courts applied negligence and damages rules less rigorously, using tort law to shape social policy, resulting in the rapid expansion of liability and large cost increases.[xvii]

Responding to public pressure on the immunity doctrine, the Legislature acted in two landmark steps:

1. **State Immunity Waived (RCW 4.92.090)** – The Legislature first waived the state government's sovereign immunity. The 1961 act (subsequently amended in 1963) provided that "the State of Washington, whether acting in its governmental or proprietary capacity, shall be liable for damages arising out of its tortious conduct to the same extent as if it were a private person or corporation."[xviii] Crucially, the Washington Supreme Court later observed that this waiver was "not as broad as it could have been written" – courts would not impose liability for every harm that might flow from governmental action.[xix]

2. **Local Government Immunity Waived (RCW 4.96.010) –** Six years later, in 1967, the Legislature extended the abrogation to all political subdivisions – including counties, cities, towns, special districts, and quasi-municipal corporations. This placed Washington counties on the same footing as private persons for purposes of tort liability.

Washington's 1967 waiver for local governments was notably broader than those adopted in most other states. Washington's statute contains no partial immunities, no caps on claims or damages, and no special administrative review of claims – features that most other states retained when they waived immunity. This structural difference continues to shape our liability landscape today.

The Legislature's waiver of sovereign immunity contained no hint of later controversies about the extent and cost of government liability. The bill received wide, bipartisan support in the House and Senate.[xx] Today, litigation continues over the extent of tort liability for local governments in Washington.

The Rise of the Public Duty Doctrine

As courts began applying the broad 1967 waiver, the volume and scope of claims against local governments expanded rapidly. In response, Washington courts developed the public duty doctrine as a judicially created counterweight, holding that a duty owed to the public at large is not enforceable by any single individual unless an exception applies. Essentially, under the premise that a "duty to all is a duty to no one [specific individual]," it protects state and local governments from excessive liability.

The doctrine became firmly established through a series of Washington Supreme Court decisions and provided counties with significant protections in areas such as building inspections, code enforcement, emergency response, and road maintenance – functions in which government acts for the benefit of the general public rather than any particular person.

The special relationship exception, established in *J&B Development Co. v. King County* (1983), created an avenue for plaintiffs who could show direct contact with the government and assurances of specific action.[xxi] However, subsequent decisions significantly narrowed the exception, requiring express rather than implied assurances, thereby limiting its practical application.

In a recent ruling in the case *Norg v. City of Seattle* (2023), the Washington Supreme Court limited the application of the public duty doctrine to cases in which the duty allegedly breached arises from a statute or ordinance mandating that the government take specific action.[xxii] If the government is carrying out a traditional common-law duty of reasonable care (such as providing aid or voluntary rescues), the public duty doctrine generally does not apply. This decision significantly expanded potential county liability by removing a long-standing defense in cases grounded in common law negligence principles.

1981 & 1986 Tort Reform Legislation

Local government reacted quickly to the liability for governmental activities and the increase in claim costs. In 1978, the Seattle City Attorney proposed legislation assigning government liability only for activities comparable to those in the private sector, but not for uniquely governmental activities. It would limit liability for regulations (licensing, permits, inspections), road and facility design, fire protection, and failure to prevent crime.

In 1979, the Legislature ordered a study on local government insurance concerns. The study ultimately recommended changes in substantive law, including eliminating joint and several liability for the government so that it wouldn't become the "deep pocket" when it was joined as a defendant in a case with others who had little or no resources. The study also included recommendations to provide for contribution among tortfeasors (persons who commit torts) and to establish a 180-day claim-filing deadline. It also proposed allowing governmental "affirmative defense" based on compliance with standards in road and facility cases and lack of notice in inspection cases.[xxiii]

The Legislature did act based on some of the studies' recommendations. Two reform acts materially changed the landscape for all civil defendants, including counties. The first was in 1981 when the Legislature modified joint and several liability, partially protecting defendants (including counties) from being required to pay 100% of damages when other at-fault parties could not pay their fair share. The Washington State Tort and Product Liability Reform Act (RCW 4.22) codified the doctrine of joint and several liability and introduced a right of equitable contribution among joint tort-feasors based on comparative fault.[xxiv] The Act abolished the old common-law rule of "active/passive indemnity," replacing it entirely with the comparative fault-based system of contribution.

Responding to the "insurance crisis" of 1985-86, which caused significant difficulties for public and private entities in securing insurance and led to large premium increases, the Legislature passed the Washington State Tort Reform Act of 1986. This was considered a major piece of legislation, and it made further modifications to joint and several liability by generally abolishing the common law rule that held a single defendant responsible for the entirety of a plaintiff's damages, even if they were only slightly at fault, in cases where the plaintiff is also at fault. The law (RCW 4.22.070) mandates proportionate liability, meaning defendants are typically liable only for their specific percentage of fault.[xxv]

The 1986 Act also attempted to create additional predictability in civil damage awards by establishing a formula limiting noneconomic damages (like pain, suffering, and emotional distress) based on a plaintiff's age and life expectancy. In 1989, the Washington Supreme Court held that the damage cap was unconstitutional, but left the joint and several liability modifications unchanged.[xxvi] The Court's ruling in *Sofie v. Fibreboard Corp.* stated that the damage caps violated the state constitutional right to a jury trial.[xxvii]

The historic trajectory of Washington's liability law reveals a consistent pattern: The Legislature acted with broad, rights-expanding intent at each step, while courts have periodically served as both expanders and limiters of the resulting liability.

The 1961 and 1967 immunity waivers were deliberately broad – intended to ensure that injured residents could seek redress for government wrongdoing just as they could for private wrongdoing. The absence of damage caps or administrative claim review was likely an intentional policy choice, reflecting distrust of administrative self-dealing and a commitment to full judicial remedies.

However, several consequences were likely not fully anticipated:

- The volume and cost of litigation that followed were substantial, prompting the 1981 and 1986 tort reform legislation as corrective measures.
- The public duty doctrine – a judicial creation, not a legislative one – was the courts' mechanism for limiting the scope of government liability exposure.
- The legal context at the time of the waivers indicates that the Legislature did not intend to create liability for governmental functions. The perception was that agencies should be liable for routine torts, not uniquely government functions. The courts' interpretation has dramatically changed the nature and cost of government liability in Washington.[xxviii]
- Broad liability for the regulatory, police, correctional, social welfare, and highway design functions of government.[xxix]
- Insurability for the government has become a problem. Some government activities are no longer considered insurable, and any available insurance for other activities is extremely expensive.
- The risk to local governments for major claims has expanded. A small county is unlikely to have adequate legal defense and insurance resources to cover claims that may arise under current law.[xxx]

Joint and Several Liability Explained

Joint and several liability is one of the most financially consequential tort doctrines for county government. Understanding how it works – and how it has changed – is essential for considerations in managing risk exposure.

At common law, when two or more defendants caused an indivisible (impossible to separate, break up, or divide into smaller parts) injury to a plaintiff, each defendant was jointly and severally liable. This meant the plaintiff could collect the full amount of the damages from any one defendant, regardless of that defendant's individual share of fault. The doctrine was designed to protect injured plaintiffs from being left without full compensation if a tortfeasor was insolvent or unable to pay.

For county governments – which are generally considered always solvent and always collectible – the traditional rule created enormous leverage for plaintiffs. Even a minor share of fault could expose the county to the entire damage award if private co-defendants were uninsured or **judgment-proof**. Before the 1986 Tort Reform Act, Washington followed the common law rule of full joint and several liability (RCW 4.22.030). A county found 10% at fault in a $1 million case, for instance, could be required to pay the full $1 million award if the other defendants were unable to pay.

Judgment-Proof

A defendant is considered "judgment proof" if they lack income, insurance, or assets necessary to pay a court-ordered financial judgment.

Under Washington Law (RCW Title 6), certain assets are exempt from collection, meaning they are completely shielded from a court judgment. If a defendant has no assets exceeding these exemptions, they may be considered judgment-proof.

Lack of Non-Exempt Assets

- The Homestead Exemption: Washington law strongly protects a primary residence. The exact equity amount protected varies by county, generally shielding up to the greater of $125,000 or the county median value.[xxxi]
- Personal Belongings: Basic household goods, clothing, and one personal vehicle (up to a specific statutory value) are exempt from seizure.[xxxii]
- Retirement & Government Benefits: Funds like Social Security, pensions, disability payments, and certain retirement accounts are federally protected from garnishment.[xxxiii]

Lack of Attachable Income

If a defendant is unemployed, relies solely on exempt government assistance, or makes very low wages, their income cannot be garnished. Under Washington and federal rules, a creditor cannot garnish wages if the defendant's disposable earnings are below minimum thresholds.[xxxiv]

Absence of Insurance

In many tort cases, insurance is the primary source of recovery. If a defendant causes harm but lacks liability coverage (e.g., an uninsured driver in a collision) and does not have other assets, the plaintiff may have no practical way to recover.

The 1986 Tort Reform Act fundamentally restructured Washington's approach. The Legislature's stated intent was to create a more equitable distribution of the cost and risk of injury and to increase the availability and affordability of insurance.[xxxv] RCW 4.22.070 established proportionate liability as the default rule in cases where the plaintiff also bears a share of responsibility for the injury. In such cases, each defendant is liable only for its own proportionate share of the plaintiff's damages. For counties, this was a landmark protection. Under proportionate liability, a county found 10% at fault in a $1 million verdict pays only $100,000 – not $1 million.

There are three exceptions to the proportionate liability standard established under RCW 4.22.070:

1. **Acting in Concert/Agency** – A defendant is jointly and severally liable for the fault of another party when both acted in concert, or when one was acting as the agent or servant of the other. For counties, this most commonly arises in coordinated law enforcement operations.[xxxvi]
2. **Plaintiff Without Fault** – If the trier of fact determines that the plaintiff bore no fault for their injury, all defendants against whom judgment is entered are jointly and severally liable for the sum of their proportionate share. This is significant in cases involving entirely blameless plaintiffs – such as pedestrians struck through no fault of their own, where both a county vehicle and an uninsured private driver were at fault.[xxxvii]
3. **Statutory Carve-Outs (RCW 4.22.070(3))** – Two claim categories are entirely excluded from proportionate liability and remain subject to traditional joint and several liability: (a) hazardous wastes or substances or solid waste disposal sites; and (b) tortious interference with contracts or business relations.[xxxviii] The hazardous waste carveout is particularly relevant to counties that operate or have operated landfills, transfer stations, or remediation sites. Courts have interpreted it broadly: asbestos product liability claims fall within the hazardous substances exception, meaning full joint and several liability applies.[xxxix]

It's important to note that claims brought under 42 U.S.C. § 1983 for constitutional violations – the most common vehicle for law enforcement misconduct claims – are governed by federal law and are not subject to Washington's proportionate liability framework. Federal courts have generally applied the joint and several liability principle in § 1983 cases, meaning that in multi-defendant federal civil rights cases, the county can face exposure for the full award regardless of its individual share of fault. This is a critical gap that the 1986 tort reform did not – and could not – address.

Comparative Analysis: How Other States Handle Local Government Tort Liability

Washington's approach to government tort liability – broad waiver, no damage caps, no administrative review – places it in a distinct minority nationally. As discussed, this is, in many ways, intentional. However, that intentionality of design carries many unintended consequences and high costs that are likely not adequately considered. Understanding how other states structure their systems illuminates the risks and benefits of Washington's current approach and potential reform models.

Nationally, state tort claims systems fall into three broad categories:

- **Absolute waivers (like Washington)** – government is liable to the same extent as a private person or entity, with few built-in protections.
- **Limited waivers** – liability is permitted only for specified types of claims.
- **General waivers with defined exceptions** – broad liability with specific immunities, caps, or administrative filters.

At least 33 states cap the monetary damages recoverable in lawsuits against government entities, and at least 29 prohibit punitive damages against public entities.[xl] Washington does not have caps in place, but generally prohibits punitive damages against both state and local governments.

Examples From Other States

Texas – Texas Tort Claims Act

Texas retains a strict general rule of governmental immunity for the state government and other "governmental units" (including counties), waiving it only in specific, defined circumstances: the use of publicly owned vehicles or equipment, the condition or use of real property, and certain premises defect claims. It waives municipalities' liability for most governmental functions. Liability waivers for certain premises-defect claims are also retained for local governments.

The Texas Tort Claims Act provides structured damage caps:

- $250,000 per person, $500,000 per each single occurrence for bodily injury or death, and $100,000 per each single occurrence for injury to or property destruction for claims against the State
- $100,000 per person, $300,000 per occurrence for bodily injury or death, and $100,000 per occurrence for injury to or property destruction for claims against local governments (including counties).

- $250,000 per person, $500,000 per occurrence for bodily injury or death, and $100,000 per occurrence for injury to or property destruction for claims against municipalities (cities, towns, villages).

Claimants must also file a written notice of claim within six months of the incident (or much shorter deadlines at the municipal level).[xli]

Benefits:

- Significant budgetary predictability. Counties know their maximum per-claim exposure.
- Retention of broad immunity for activities not expressly waived.
- Lower insurance costs due to limited and capped exposure.

Limitations:

- Seriously injured plaintiffs may be dramatically under-compensated.
- Caps may not reflect actual economic harm (medical costs, lost wages) in severe cases.
- Federal civil right claims (§ 1983) bypass state caps entirely.

Colorado – Colorado Governmental Immunity Act

Colorado takes more of a middle-ground approach for both state and local governments. The Colorado Government Immunity Act (CGIA) grants sovereign immunity to government entities as a general rule, then specifies categories of waiver (vehicle operation, operation of a correctional facility or jail, dangerous conditions of public facilities, public water facilities, public roads and highways, and others). Outside of those categories, immunity is retained. The claims waiver for correctional facilities, jails, and dangerous conditions in public facilities is not granted to those incarcerated in such facilities who have been convicted of a crime, or to those being held but not yet convicted.[xlii]

Colorado law also stipulates liability caps for waived claims:

- Non-economic damages are capped at $1.5 million, indexed for inflation.
- Damages for wrongful death claims are capped at $2.125 million, indexed for inflation.[xliii]
- Total injury liability for any single occurrence is also capped and indexed for inflation.
  - $350,000 per person in any single occurrence for any injury
  - $990,000 for any single occurrence for any injury to two or more persons, but no person may recover more than $350,000.[xliv]

Benefits:

- Clear delineation between immune and non-immune activities reduces litigation over threshold questions.
- Caps create predictable budgeting while providing meaningful (though bounded) recovery.
- Caps are indexed for inflation and maintain relevance over time.

Limitations:

- Plaintiffs with catastrophic injuries (paralysis, brain damage) may find the caps insufficient.
- Immunity for activities outside the waiver list may bar legitimate claims.
- Federal civil rights claims remain outside state cap protections.

New Jersey – New Jersey Tort Claims Act

New Jersey provides specific immunities for public entities (including both state and local governments). This includes computer hardware and software failure; government discretionary activities; adoption, failure to adopt, or failure to enforce a law; issuance or denial of a permit or license, etc.

Claimants must first file a Notice of Claim within 90 days of the incident. Once the claim is filed, there is a 6-month waiting period before the claimant may file suit. If the claim is not filed or a lawsuit is not pursued, claimants are barred from recovering against a public entity once two years have elapsed since the accrual of the claim. As to damages:

- No damages for pain and suffering are available unless the plaintiff suffered permanent loss of bodily function, permanent disfigurement, or dismemberment, with medical expenses exceeding $3,600.[xlv]

Benefits:

- Verbal threshold effectively filters minor and speculative claims.
- 90-day notice requirement gives government agencies an early opportunity to investigate and settle.
- Immunity provisions for specific functions protect routine government activities.

Limitations:

- The threshold can bar deserving plaintiffs with real but non-permanent injuries.
- 90-day filing deadline is shorter than Washington’s general limitations period and can trap unwary claimants.
- Complex threshold determinations create litigation over whether injuries qualify, adding cost.

California – Government Claims Act

California's Government Claims Act (formerly the California Tort Claims Act) requires claimants to file a written claim with the public entity within six months of the injury before filing suit. The Act provides immunity to the State and related entities from suits, absent compliance with the claims process, and retains certain specific immunities. Immunities include policing, corrections, public health and human services, the design and construction of public property, failure to provide traffic or warning lights, the effect of weather conditions on roads and highways, the condition of public beaches, the condition of unimproved public property, roadway conditions, recreation activities, if the claimant was committing a crime, etc.[xlvi]

California does not impose a general cap on government tort liability, except for a cap on punitive damages, which are not completely barred, making it similar to Washington (other than allowing punitive damages). However, California applies a $250,000 cap on non-economic damages in medical malpractice cases, which will incrementally rise to $750,000 (non-death) and $1 million (death) by 2033.[xlvii]

Benefits:

- Six-month notice requirement (shorter than Washington's 3-year limitations period) ensures timely government notice.
- Specific immunities for discretionary acts and certain planning decisions provide meaningful protection.

Limitations:

- No general cap on damages means California counties face large verdict exposure similar to Washington.
- Volume of claims and litigation costs is significant.

Ohio – Ohio Court of Claims

While Ohio broadly waives sovereign immunity and consents to be sued (except for the Office of the State Fire Marshal), all tort claims against the state are decided by the Ohio Court of Claims.[xlviii] The Court of Claims offers an administrative process for small claims (claims of $10,000 or less) and a judicial process for larger claims. Judicial cases are heard by a judge or magistrate. There are no jury trials in the Court of Claims.[xlix] Unfortunately, claims against local government are not included in the Court of Claims' processes.

While there is no limit on economic damages, non-economic and punitive damages are capped:

- $250,000 for pain and suffering, loss of consortium.
- Punitive damages are not allowed against the state.

- Recovery against the state is reduced by the aggregate of any other payments (insurance, disability, etc.).

Benefits:

- Residents are allowed to recover for losses against the state.
- The process is less expensive and more efficient.
- Avoids the potential for "nuclear verdicts" from sympathetic juries.

Limitations:

- Plaintiffs with catastrophic injuries may find the caps insufficient.
- Federal civil rights claims cannot be handled by the Court of Claims and remain outside of state cap protections.
- All proceedings take place in Columbus, which may require significant travel for some claimants with larger claims.
- The Court of Claims is utilized only for claims against the state, not its political subdivisions (including counties).

Government Tort Comparative Summary

State	Immunity Default	Damages Cap	Notice Deadline	Administrative Review?
Washington	Fully waived	None	60 days pre-suit (after claim filed)	No
Texas	Retained (limited waiver)	$100k per person (county)	6 months	No
Colorado	Retained (specific waivers)	$1.5M non-economic	182 days	No
New Jersey	Waived with exceptions	Verbal threshold	90 days	No
California	Waived with immunities	None $250k+ med.-mal.	6 months	No
Ohio	Waived with exceptions	$250k pain & suffering	2 years	Yes

Joint and Several Liability in Other States

Washington's proportionate liability default, with exceptions, places it in the majority of reform-oriented states. However, the details of how other states structure joint and several liability materially affect county exposure.

California – Modified: Economic Damages Only

California created a hybrid system in which joint and several liability is retained for economic damages (medical bills, lost wages, future care), but for noneconomic damages (pain and suffering, emotional distress), defendants are severally, or proportionately, liable only – each paying only their share.[l] California counties face deep-pocket risk only for the economic component. This is a meaningful protection given that noneconomic damages are often the largest component of major verdicts.

Texas – Modified: Threshold-Based

Texas provides that a defendant is jointly and severally liable only if found more than 50% responsible for the plaintiff's damages. Below that threshold, proportionate-only liability applies.[li] Combined with the Texas Tort Claims Act's per county damage cap of $100,000 per person, Texas county governments are among the most insulated from large verdict exposure in the country.

New Jersey – Modified: 60% Threshold

New Jersey retains modified joint and several liability for defendants found more than 60% at fault. Below that threshold, several-only (proportionate) liability applies.

Florida – Several Only (Post-2023)

Florida's 2023 tort reform abolished joint and several liability for most torts, moving to pure proportionate liability.

Joint and Several Liability Comparative Summary

State	Joint & Several Liability Rule	Key Threshold	County Government Impact
Washington	Proportionate w/ exceptions	Exceptions: concert, no-fault plaintiff, hazardous waste	Strong in most cases; environmental and federal civil rights cases gaps remain
California	Modified – economic only	J&S for economic, proportionate for non-economic	Protects from non-economic awards; still exposed to medical/ wage losses
Texas	Modified – fault threshold	J&S if defendant is >50% at fault	Strong when county secondary; capped at $100k per person
New Jersey	Modified – fault threshold	J&S if defendant is >60% at fault	Layered protection
Florida	Proportionate	Few exceptions	Strong protection
Alabama	Pure joint and several	No threshold	Maximum county exposure – full deep-pockets risk
Delaware	Pure joint and several	No threshold	Maximum county exposure – full deep-packets risk

A complete listing of all state statutes regarding tort claims is provided as Appendix A.

Key Case Law Shaping Washington Local Government Liability

The legal contours of county tort liability have been shaped as much by judicial decisions as by legislative action. The cases below represent the most significant decisions impacting counties.

Evangelical United Brethren Church v. State, (1965)

Shortly after the Legislature waived state sovereign immunity in 1961, the Supreme Court was asked to define the scope of that waiver. *In Evangelical*, plaintiffs successfully sued the State for fire damage caused by a juvenile who had escaped from an "open program" at a correctional facility.[lii] Plaintiffs contended that the State was negligent for maintaining an open program and for assigning the juvenile to it.[liii] The State sought reversal because the state acts involved judgment and discretion.[liv]

The court reversed the verdict and held that, while the waiver was broad in its language, it was not as expansive as it could have been. The State would be liable for tortious conduct analogous to that of a private person – but not for every harm that might flow from government action. This case established the foundational principle that an immunity waiver does not make government an insurer for all public harm, a principle that continues to shape every government tort case in Washington.

J&B Development Co. v. King County, (1983)

The public duty doctrine holds that a duty owed to the public is not a duty owed to any individual. *J&B Development* created an important exception: If a government official had direct contact with a specific person and provided assurances that particular steps would be taken, a special relationship arose, and liability could follow. Issuance of a building permit with implied assurances of code compliance was initially held sufficient.[lv] However, later decisions – including *Tayler v. Stevens County* (1988) – significantly narrowed the exception, requiring express rather than implied assurances, substantially reducing its practical availability to plaintiffs and, correspondingly, protecting counties.[lvi]

Bailey v. Town of Forks (1987)

Bailey v. Town of Forks authoritatively enumerated the four recognized exceptions to the public duty doctrine:

1. Clear legislative intent to protect a specific class of persons;
2. The failure-to-enforce exception (where an agent with enforcement authority has actual knowledge of a violation and fails to act);
3. The rescue doctrine; and
4. The special relationship exception.[lvii]

By cataloging these exceptions in a single decision, *Bailey* became the essential precedent for both plaintiffs seeking to establish county liability and counties defending against such claims. Every public duty doctrine case file in Washington since 1987 traces back to this decision.

Sofie v. Fibreboard Corp. (1989)

Sofie v. Fibreboard Corporation is one of the most impactful decisions in Washington tort history, and it directly explains why Washington counties have no statutory cap on damages today. Understanding this case is essential for anyone seeking to understand the current liability landscape.

Austin Sofie developed mesothelioma following occupational exposure to asbestos manufactured by Fibreboard Corporation and other defendants. He and his wife, Marcia, sued for personal injuries and loss of consortium. Loss of consortium is a legal claim in tort law that allows the spouse or close family member of a severely injured or wrongfully killed person to seek compensation for the damage to their relationship. It compensates for non-economic damages, like loss of affection, companionship, intimacy, and household support.

The jury found for the Sofies and awarded substantial damages, including a significant non-economic damages component, covering pain and suffering, disability, emotional distress, and loss of consortium. However, the trial judge was required by RCW 4.56.250 – enacted as part of the 1986 Tort Reform Act – to reduce the noneconomic damages to $125,136.45, based on a formula that multiplied the state average annual wage by 0.43 and by the plaintiff's life expectancy. The total judgment was thereby reduced to $316,377.45. The Sofies appealed directly to the Supreme Court, arguing the damages cap was unconstitutional.[lviii]

RCW 4.56.250, part of the 1986 Tort Reform Act, limited noneconomic damages – defined as subjective, nonmonetary losses including pain and suffering, disability, disfigurement, emotional distress, injury to reputation, loss of consortium, and destruction of the parent-child relationship – that any plaintiff could recover. The cap was age-dependent: the older the plaintiff, the lower the maximum recovery, because life expectancy is shorter.[lix] The jury determined damages without knowing about the cap; the judge then silently reduced the verdict to the statutory limit.

The Sofies argued that RCW 4.56.250 violated their right to a trial by jury under Article I, Section 21 of the Washington Constitution, which declares that the right to a jury trial shall remain inviolate. The Washington Supreme Court agreed and struck down the cap. The Court held that the determination of damages has historically been the exclusive province of the jury, and that allowing a judge to silently reduce a jury's verdict post-trial unconstitutionally invaded that protected domain.[lx]

Sofie v. Fibreboard is the direct reason Washington has no statutory damage cap today – for any defendant, including counties and other local governments. When the Legislature enacted the 1986 damage cap, it expressly intended to limit large noneconomic awards against all defendants. The Supreme Court removed that tool. The Legislature has not re-enacted a constitutionally-compliant cap in the 37+ years since *Sofie*.

Because the Washington Constitution's jury trial right is independently interpreted and treated as protecting the jury's damages function, any future legislative cap on noneconomic damages in jury cases would likely face immediate constitutional challenge under *Sofie* – effectively foreclosing this route to liability reform absent a constitutional amendment. This is a key reason Washington is in the minority among states without meaningful government tort damage caps, and it is a structural feature of Washington law.

Babcock v. State (1989 and 1991)

The *Babcock* litigation, decided in two stages, was the first case to impose liability on a social program and arose from negligent foster care investigations and placements by DSHS caseworkers. In *Babcock I* (1989), the Court initially granted both DSHS caseworkers and the State absolute immunity. Recognizing this was too broad, the Court granted reconsideration.[lxi] In *Babcock II* (1991), caseworkers received only qualified immunity, and the State itself could not claim its employees' immunity where the State had committed independent acts of negligent supervision or program design.[lxii] This framework – that county employees may have qualified immunity, while the county itself remains liable for its own independent negligent acts – continues to govern today and is directly relevant to county sheriff's offices and other county departments whose staff exercise discretionary judgment.

Taggart v. State (1992)

Taggart addressed whether parole officers who negligently supervised released offenders who then harmed third parties could be held personally liable. The Court held that parole officers were entitled to qualified – not absolute – immunity, because the prospect of personal liability could unduly inhibit professional judgment in difficult supervision decisions. However, the State itself was not shielded by its employees' immunity when it had committed its own independent acts of negligence.[lxiii]
Taggart reinforced *Babcock*: a government employee's personal immunity does not automatically transfer to the government entity. This distinction is critical for counties. While the sheriff or corrections officer may be personally immune, the county may still face liability for its own policies, training deficiencies, or supervision failures.

Kottler v. State (1998)

Kottler v. State is the Supreme Court's most comprehensive interpretation of the 1986 Tort Reform Act's shift from joint and several to proportionate liability. The Court confirmed that several-only (proportionate) liability is the general default rule and that the three enumerated exceptions – acting in concert or as an agent, plaintiff-without-fault, and statutory carve-outs for hazardous waste and tortious interference – are to be narrowly construed.[lxiv] For counties, *Kottler* provides significant budget protection: in most multi-defendant cases, the county pays only its own proportionate share, not the shares of insolvent or absent co-defendants. However, the exceptions remain significant, particularly in environmental and law-enforcement joint-action cases.

Norg v. City of Seattle (2023)

In a 5-4 decision, the Washington Supreme Court held that the public duty doctrine does not bar tort claims grounded in a common law duty of care as opposed to a duty arising from a specific statute.[lxv] Prior to *Norg*, the doctrine was broadly applied to defeat negligence claims against the government regardless of whether the duty was statutory or common law in origin. After *Norg*, plaintiffs may bring common-law negligence claims against local governments without overcoming the public duty doctrine.[lxvi]

The practical effect is to expand the circumstances under which counties can be held liable, and likely to increase the volume and success rate of claims that would previously have been dismissed. This is the most significant single expansion of county tort liability in recent decades, achieved through judicial decision rather than legislation.

Essex v. Grant County Public Hospital District No. 1 (2024)

In this unanimous 2024 decision, the Court held that a public hospital has a nondelegable duty to patients in its emergency department under Washington's hospital licensing regulations. When independent contractor clinicians failed to diagnose and treat a patient who subsequently died, the county hospital district was held liable notwithstanding the contractors' non-employee status.[lxvii]

For counties affiliated with public hospital districts, this decision means contracted clinical services cannot fully insulate the county from liability. It also signals that courts may look for nondelegable duties in other heavily regulated county functions where licensing or permitting frameworks impose specific standards of care.

The Current State of County Liability in Washington

Under the existing statewide legal framework governing local government liability and tort claims, counties in Washington are finding themselves in a constantly changing, increasingly precarious, and financially risky environment. During Washington's territorial period and early statehood, counties acted as the primary administrative arms of the territorial and state governments. They facilitated western expansion, platted new towns, managed public works, enforced property laws, and provided direct public health and justice services in a rapidly growing portion of the U.S. In the mid and later 20th century, the role of counties gradually became increasingly complex, and the services they now provide have expanded dramatically. The Legislature continues to add new requirements for county services nearly every year.

The work of local government is inherently risky. It is also mandated by the Legislature. Unlike private entities, local government is not free to cease work that creates a risk of liability. They provide mandated services that residents and society need and that no other entity provides. Washington's expansive liability for purely governmental functions and decisions has produced high legal defense costs and increasing tort payouts, financed by taxpayers at the expense of other services, raising the question of whether such a system is in the public interest.

Emerging and Expanding Liability Areas for Washington Counties

Law Enforcement & Corrections

Law enforcement continues to be one of the highest-risk liability areas for counties' Sheriff's offices. Washington's 2021 police accountability legislation (including I-940 reforms and subsequent modifications) increased the legal standard for use of force and expanded documentation and reporting requirements.[lxviii] The Legislature's ongoing debates about **qualified immunity** further affect the exposure of county sheriff deputies and the county as a whole.

Washington launched WADEPS (Washington State Data Exchange for Public Safety) in 2025, a statewide database collecting use-of-force data from law enforcement agencies. This data will be publicly available and may be used to support claims, making robust internal documentation and training essential for counties.

Qualified Immunity

A legal doctrine established by the U.S. Supreme Court that shields government officials, like police officers, from being held personally liable for civil damages, unless their conduct violates a **"clearly established"** statutory or constitutional right.

Clearly Established

At the time the incident occurred, every reasonable official would understand that what they were doing was unlawful.

Corrections are another high-risk area for counties. Jail populations require constant supervision and often have high service needs for both physical and mental health conditions. Jails also manage various programs to protect different classes of inmates while simultaneously providing protection or discipline for individuals who may require it. The jail is a risk-filled environment for both inmates and staff.

Childhood Sexual Abuse

Effective June 6, 2024, Washington imposes no statute of limitations on civil claims for childhood sexual abuse based on intentional conduct occurring on or after that date.[lxix] For county departments that serve youth, including juvenile justice, parks, and community programs, this represents an unlimited future liability window. Several counties are also facing rapidly increasing claims, many of which are old enough that record retention requirements have expired, alleged abusers and potential witnesses may no longer be available, and other circumstances may exist that make many of these claims difficult, if not impossible to defend. Many of the claims predate the counties' insurance policies, leaving them fully exposed to any financial award. One county reports receiving over $500 million in claims to date.

Public Records

Washington's Public Records Act (PRA) is notoriously strict and imposes harsh financial penalties, including the requester's attorney's fees, on local governments and state agencies for even minor, unintentional violations. The Act's penalties don't consider the circumstances surrounding a public records request or requester, including the size and frequency of requests by a single requester, whether the requester is harassing the public agency, or whether an ulterior motive exists regarding the request. A small number of requestors often drive a large volume of lawsuits.

Lawsuits alleging violations of the PRA have become so frequent and expensive that insurance companies in Washington no longer offer coverage to counties.

Road and Infrastructure

Claims alleging road design defects, inadequate signage, and unsafe infrastructure remain among the most common tort claims against counties. Counties are dangerously exposed to such claims because state law contains no immunity for road construction and maintenance, even when a county can prove it meets industry standards. This is also true in cases where drugs and alcohol were factors in an accident, or state mandatory seatbelt laws weren't followed.

The Washington Attorney General's Torts Division notes highway design as a leading category of state-level tort claims. Counties bear primary responsibility for county road networks, making proactive inspection programs, timely repair documentation, and appropriate notice-to-the-public critical risk management tools.

Cyber Liability

A growing threat of ransomware, data breaches, and system disruptions is affecting county operations and the data they maintain. Cyber incidents may give rise to tort claims for failure to protect sensitive personal data, as well as operational disruptions to county services, especially emergency response and supervision.

Employment

The vast majority of the services provided by counties require the administration of county staff. Accordingly, a county's largest single expense is salaries and benefits. Counties face significant exposure to lawsuits arising from claims regarding wrongful termination, labor relations issues, and violations of anti-discrimination laws.

Counties manage large, complex workforces, including sheriff's deputies, healthcare workers, public works crews, and many more. With large numbers of diverse workers, risks related to occupational injuries, personal property damage, injury claims, labor disputes, and public scrutiny increase. As workforces grow, so does the risk.

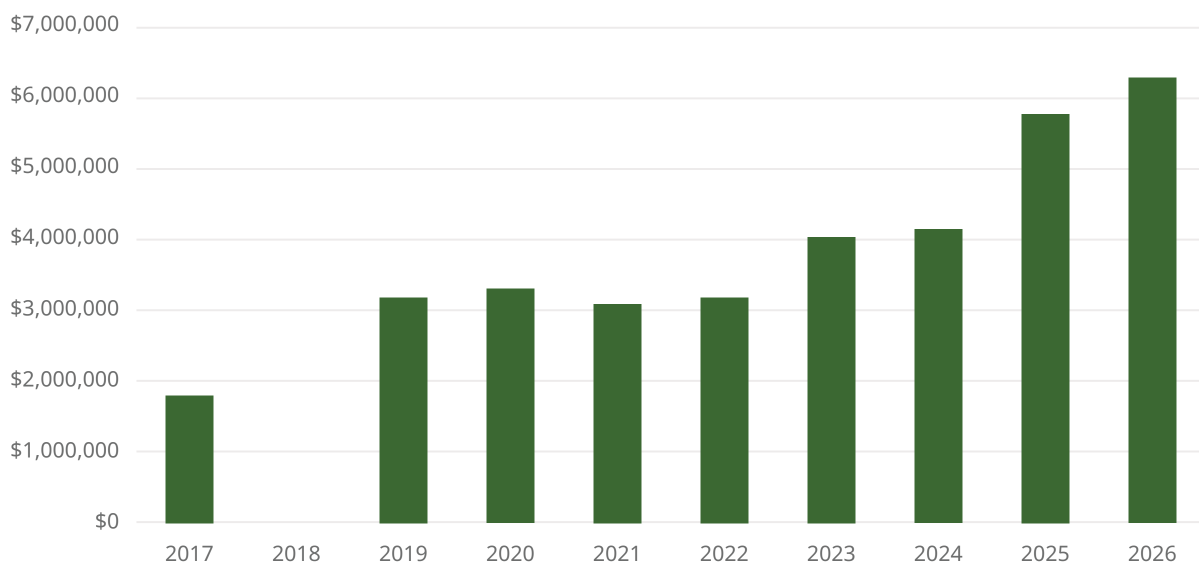
Spiraling Costs

Jail Medical Services

Medical care is a fundamental right for incarcerated persons in Washington. Failing to provide it is not an option.[lxx] Unfortunately, there is no liability exemption in Washington for medical providers who offer services in county jails. Jail populations are also typically high-need patients. Inmates often suffer from previously unmanaged chronic illnesses, severe mental health issues, and substance use disorders. This makes them higher-risk patients compared to the general public.

Liability insurance is exorbitantly expensive for jail medical providers in Washington due to frequent high-dollar settlements. This has led to a lack of private insurance carriers willing to underwrite carceral risks. That has further led to an extremely limited private market for correctional healthcare. Annual costs have skyrocketed as a result, while counties face limited or no ability to control costs for required services. For example, Kitsap County recently reported that its jail medical costs have more than tripled in recent years.[lxxi]

Kitsap County Jail Medical Costs

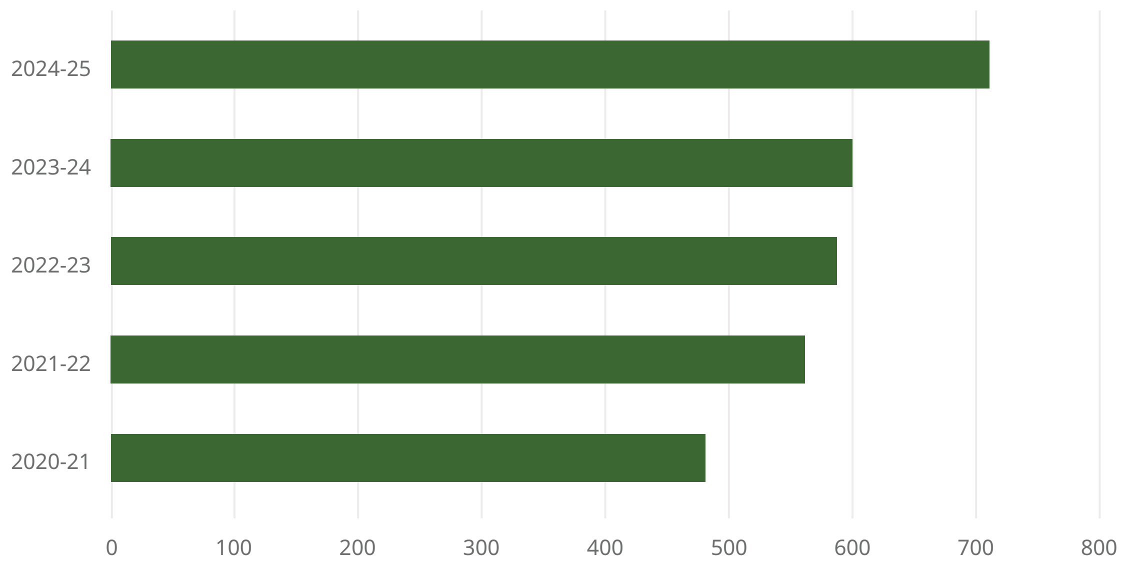


Insurance Costs

Many counties (24) are members of the Washington Counties Risk Pool (WCRP or "the pool"). Others are members of other risk pools, purchase their own insurance on the open market, or are self-insured. Regardless of how they are insured, due to the current state of local government liability in Washington, counties are being forced by private insurers to take on more financial risk for their liability.

One of the primary cost drivers is the number of claims being submitted. As liability exposure to local governments continues to increase due to changes in case law and the legislature adding more responsibilities to local government functions, more claims are a predictable result. The WCRP tracks the number of claims it receives each year. Since 2020-21, claims submitted to the pool against member counties have increased by more than 60%. In considering this increase, it's important to note that not all claims make it to the pool. Only those that exceed the counties' deductibles are tracked, making the net increase likely even higher.

WCRP Claims Received



The WCRP reports that the self-insured retention (SIR) requirements for its 24 members have increased 4,000% since 2018. The SIR is the minimum amount that the risk pool must be prepared to pay for claims that exceed a member county's deductible before the insurance companies agree to pay any additional amount. For instance, in 2018, the pool's SIR per individual claim was $100,000. For most members, that amount didn't exceed their deductible, and the pool's reserves would pay nothing for most claims. However, as a clear indication of increased risk and liability, the pool's SIR minimum for each claim in 2026 is $4 million. That amount far exceeds most members' deductibles and places the WCRP in the position of paying significantly more for claims before the private insurers are willing to participate.

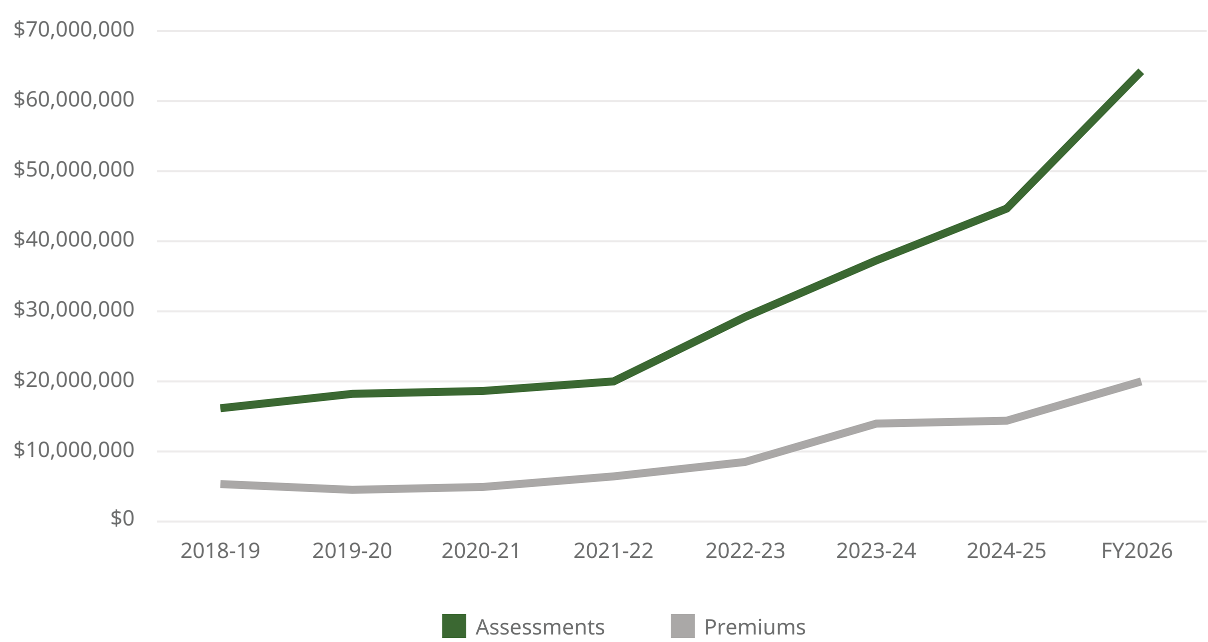
Such a significant change in the pool's SIR has had financial impacts on members:

- Member payouts per claim may increase; and
- Higher SIR requirements translate directly into premium increases, and in this case, significant increases.

The liability insurance needs for individual members have also increased significantly. Today, each member of the WCRP must have at least $20 million in liability insurance coverage. That is double the previous requirement of $10 million, set only a few years ago, before the pool raised the minimum coverage requirements.

Of course, the increased risk, higher and more frequent payouts, and double the minimum required insurance coverage drive costs higher and higher. Yakima County, a WCRP member, reported in January this year that its overall liability insurance costs have increased by nearly $6 million since 2021, rising from $3.5 million to $9.2 million.[lxxii] Overall, WCRP reports that premiums for private insurance carriers serving its members have increased by over 380% since 2018. Total required assessments for its members (assessments cover insurance, SIR needs, excess payouts, solvency requirements, and operational costs) have also increased at a similar rate (nearly 400%).

WCRP Assessments & Premiums



An argument often advanced to justify increasing government liability is the claim that the burden of loss should be shifted from the individual, who can least afford it, to the entire community, which can best afford it.[lxxiii] This argument is buttressed by the fact that insurance is available to a state and its agencies. Thus, increased taxes can be kept at a minimum[lxxiv] while the state provides redress to those wronged.[lxxv]

Unfortunately, such an argument is quickly undermined when insurance costs increase dramatically to the point of unaffordability, even for governments, driven, in large part, by an unpredictable tort environment. The argument is moot when insurance is unavailable, as is the case with some government services in Washington today.

The current state of the insurance market and its impact on Washington insurance rates, in particular, is not new information. In a 2020 study, the Department of Enterprise Services, Office of Risk Management stated, "[t]he world is facing the worst insurance market in over 30 years," and specifically noted that "Washington is also a uniquely difficult venue for liability insurers."[lxxvi] Insurance subject matter experts identified specific reasons why Washington's insurance market faces several dilemmas, including the lack of limits on liability damages. The absence of tort reform, along with limited service provisions for high-risk populations, creates significant challenges in obtaining adequate and affordable insurance.[lxxvii]

Potential Strategies to Reduce Local Government Tort Liability

Several strategies could be pursued to address the rising cost of local government tort liability in Washington while preserving victims' ability to receive full compensation for injury and loss. Counties support continuing Washington's tradition of victim advocacy and trauma-informed standards. Any reforms should maintain reasonable access to compensation, avoid retraumatization, and ensure the dignity and needs of victims are met.

At the same time, local governments cannot afford to pay the costs of skyrocketing jury awards that exceed actual losses. Local governments are not like private entities and cannot eliminate risky activities. Such activities are mandated by the Legislature and must be provided. When insurance premiums surge, constrained local resources cannot keep pace with the steep increases, undermining other valuable services. The ongoing financial strain creates a vicious cycle that spirals as costs rise and risk increases with inadequate resources for inherently risky, mandated services that aren't provided by any other entity.

It's critical to remember that, when discussing local government risk and liability costs, the ultimate payers are residents. When insurance costs needed to protect the local government's financial solvency, which the state has charged with providing the basic services residents need, go up, the taxpayers are the ones footing the bill. When a damage award exceeds insurance coverage, or there isn't any insurance to cover it, the taxpayers pay in the form of higher taxes or reduced services, or both. Social outrage or societal backlash in the form of "nuclear verdicts" and higher insurance rates ultimately lands squarely on the backs of residents.

Strengthening Sovereign Immunity

The Legislature should consider exempting state and local governments' regular functions from the sovereign immunity waiver. Most often, such functions are mandated by the Legislature, and without a waiver, they continue to increase as new mandates are implemented.

The majority of counties in Washington are subject to Dillon's Rule, a legal principle stating that local governments (such as counties) have only the powers expressly granted to them by their state government. This makes most counties wholly dependent on the Legislature to explicitly authorize them to do something. In that way, most counties only provide the services they are required to provide and should be shielded from excessive liability in doing so.

Many law articles have been written in recent years evaluating changes in state and local government tort liability since the state waived sovereign immunity in the 1960s. Most agree that the waiver never intended to impact regular government functions, but proprietary activities. It was the courts that dramatically expanded liability to include regular government functions. The Legislature could address this issue through clarifying legislation if it chose to act.

Implement Financial Caps for Damage Awards from Tort Claims

Most states with sovereign immunity waivers also have mandatory caps on damages for tort claims against governments. Victim advocates will argue that arbitrary caps don't completely consider an individual's full injury and may undercompensate those most impacted. Some claimant attorneys who offer services on a contingency basis will oppose caps because they limit the amount they may be paid for a case. The Washington Supreme Court has already ruled in *Sofie v. Fibreboard* that damage caps are unconstitutional as they impair a victim's right to a jury trial.

Imposing damage caps on tort claims against governments in Washington may require a constitutional amendment. However, it would create significant predictability in determining risk for regular government functions while reigning in long-term costs, for payouts and insurance. Damage award caps could likely be right-sized to ensure that most victims are compensated fairly, with exceptions for extraordinary cases involving greater loss. The caps on damage awards could also follow models in other states that index the amounts to annual inflation, ensuring they keep pace with real costs.

The Legislature was willing to implement caps on damage awards for tort claims against governments in the Washington State Tort Reform Act of 1986, in response to the insurance crisis of the 1980s. Counties are facing a similar crisis today, as insurance costs are spiking to levels unforeseen by county budgets.

Reduce Government Exposure to Joint & Several Liability

While Washington's proportionate liability standard provides strong protection for local governments in many respects, it can still result in counties playing the unfortunate role of the "deep pocket" in no-fault cases. This can be true in transportation-related cases on a county road involving another driver and vehicle, where the driver is either uninsured or underinsured. Even if the county is assigned very little fault in such a case, perhaps due to a missing guardrail or roadway debris, the county could still end up paying the full cost of any damage award. Of course, it's also a possibility in many other types of cases as well, especially in no-fault cases where other parties are considered judgment-proof.

One way to improve joint and several liability risk is to implement strict proportionate liability in all cases involving claims against state and local governments. Strict proportional liability could be applied to all cases and damages, or it could distinguish between economic and non-economic damages, as it does in some other states.

Another strategy that could be utilized is to reserve joint and several liability only for those assigned a certain threshold of responsibility for the damage caused. For instance, Texas and New Jersey impose joint and several liability only against defendants to whom 50% or 60% of the liability, respectively, is assigned.

Develop an Alternative Tribunal Process for State and Local Government Tort Claims

Local governments, taxpayers, and victims may benefit significantly if tort claims against governments are not processed through the traditional court system but are rerouted to an alternative adjudicatory system. The incredible increase in the size of jury verdicts in some cases is one of the main reasons liability costs are so high. An alternative system could avoid the jury process altogether while expediting claims more predictably, efficiently, and at a lower cost for everyone involved.

An example of such a system is the Ohio Court of Claims. As a specialty court, the Ohio Court of Claims applies its own rules and statutes in resolving cases. It does not include a jury.[lxxviii] The use of such a system in Ohio has led to much greater stability in state and local government liability.

The Ohio system also incorporates reasonable caps on damage awards. This may be a model for Washington to consider that could overcome the previous decision that caps on damage awards in jury trials are unconstitutional.

Other Legal Protections to Reduce State and Local Government Liability

The Legislature could also address other portions of statutes that indirectly affect state and local government liability. For instance, drivers in Washington must maintain a minimum level of liability insurance to protect themselves and others in the event of an automobile accident. The value of that liability insurance minimum hasn’t been increased for over a decade. Revaluing the insurance minimum would increase individual drivers’ responsibility and reduce the liability of others implicated in no-fault automobile accidents that result in joint and several liability. Indexing it to inflation would reduce the risk for uninsured and underinsured drivers, leaving victims uncompensated.

Counties are often named in lawsuits regarding auto accidents, regarding road design, and maintenance. The law does not provide liability protection for counties even if the road meets professional standards for design, maintenance, and materials. It is well documented that counties are underfunded for the road miles and related infrastructure (bridges, guardrails, traffic signals, signage, etc.) they are required to maintain.[lxxix] In some cases, a county becomes aware of a transportation deficiency and may apply for a state or federal grant to help implement a remedy. Appellants have used grant applications that justify the need for assistance to correct the known problem in their tort claims. The legislature could address both concerns in state law.

Other examples could include allowing defendants to introduce evidence as to whether a victim was complying with Washington's mandatory seatbelt law when assessing damages. Another could be to completely bar any claim for damages when the alleged victim was injured while committing a crime, regardless of the level of responsibility for the injury attributed to the criminal conduct.

While all these examples are directly or indirectly related to the state or local government's liability in transportation, there are numerous other liability areas that could be explored for improvements.

Engrossed 2nd Substitute SB 6239 (2026) State Tort Claims

Considered by the Legislature in 2026, E2SSB 6239 would have made certain tort claims against the state or any of its subdivisions (including counties) subject to administrative adjudication for any dollar amount prior to being scheduled for trial, based on the age of the claim.

Sponsored by Senator Manka Dhingra, the bill would have established a claims commission to adjudicate tort claims. Claims for personal injury would have been required to utilize the commission before filing suit if the claim occurred ten years or more before filing. Newer claims could also choose to use the commission process.

According to the bill, the commission would hold a hearing on the claim and render a decision. However, if either party was unhappy with the decision, the claim could then be filed in Superior Court within 30 days. There were penalties if a claimant filed in Superior Court and did not improve their position at trial.

The intent of the bill was to provide an expedited, more efficient way for claimants of older claims to seek redress for damages, while also removing the jury from the process. It would also hopefully encourage newer claims to do the same.

Counties supported the bill. It passed the Senate but was never considered in the House.

Conclusion

Washington's local government tort liability system has evolved far beyond the original scope intended by the Legislature when it waived sovereign immunity in the 1960s. What was designed as a fair mechanism for compensating victims of government negligence has become a system that exposes counties to expansive, unpredictable, and increasingly costly liability for the full range of their mandated public functions.

The financial strain is real and accelerating. Insurance premiums have risen hundreds of percent in just a few years. Some coverage is no longer available. Small counties – those with the fewest resources – face the greatest proportional risk. And all these costs ultimately fall on local taxpayers, either through higher taxes or through the erosion of the very public services that counties exist to provide.

The need for reform is urgent, but the path is constrained. The Washington Supreme Court's ruling in *Sofie v. Fibreboard Corp.* forecloses simple legislative damage caps in jury trials without a constitutional amendment. Recent decisions in *Norg v. City of Seattle* and *Essex v. Grant County* have further widened liability exposure. Federal civil rights claims under 42 U.S.C. §1983 remain entirely outside of state reform efforts.

Despite these obstacles, meaningful reform is achievable. The Legislature acted before, in 1981 and 1986, when rising costs demanded action. Counties and other local governments should not escape accountability for genuine wrongdoing. But we need a system that recognizes the unique nature of mandated public services, provides predictable and sustainable cost structures, and ensures that taxpayer resources are used to serve communities rather than to fund excessive or unpredictable litigation.

A balanced approach, one that preserves access to fair compensation for injured residents while protecting the financial sustainability of local government services, would best serve Washington's communities, its local governments, and ultimately, the taxpayers who fund both.

Appendix: Statutes Regarding Tort Claims Against States

Generally, state governments are immune from tort suits by individuals under the doctrine of sovereign immunity, unless the states decide to waive their immunity. This summarizes the damages available under state tort claims acts.

Reprinted from the original source[lxxx].

Alabama

Ala. Code §6-11-26

Punitive damages may not be awarded against the state of Alabama or any county or municipality thereof, or any agency thereof, except any entity covered under the Medical Liability Act now codified as section 6-5-480 et seq., or any acts amendatory thereto.

Ala. Code §41-9-60 et seq.

Ala. Code §41-9-68

(a) When claims are properly prepared and presented to the Board of Adjustment and, after ascertaining the facts in the case, it is directed to determine the amount of the injury, death or disability or other injury or damage arising from contract or business and to fix the damages, using as its guide, when applicable, the ordinary rules of negligence and worker's compensation laid down by the courts and the moral obligation of the state of Alabama, and to award and find the person entitled to payment and the amount, if any, which should be paid and any other facts necessary for a proper adjustment of claims. The ordinary rules of negligence as to liability are to be followed in claims by parties not employees of the state of Alabama or any of its agencies, commissions, boards, institutions or departments. The rules of Chapter 5 of Title 25 as to liability are to be followed in claims for the injury or death of convicts, in claims for employment related injury or death of any employee of a city or county board of education, college or university, and in claims for injury or death of any employee of the state of Alabama arising out of employment with the state where the said employee is not covered by an employee injury compensation program.

Ala. Code §41-9-70

The Board of Adjustment shall not fix a greater amount to be paid on any claim for death or personal injuries than the limits fixed in Chapter 5 of Title 25 for injuries, loss of time, medical attendance or death; provided, that convicts shall be considered as receiving the minimum wages mentioned in Chapter 5 of Title 25.

Alaska

Alaska Stat. §09.50.250 et seq.

Alaska Stat. §09.50.280

If judgment is rendered for the plaintiff, it shall be for the legal amount found due from the state with interest as provided under AS 09.30.070 and without punitive damages.

Arizona

Ariz. Rev. Stat. Ann. §12-820 et seq.

Ariz. Rev. Stat. Ann. §12-820.04

Neither a public entity nor a public employee acting within the scope of his employment is liable for punitive or exemplary damages.

Ariz. Rev. Stat. Ann. §12-823

If judgment is rendered for the plaintiff, it shall be for the amount actually due from the public entity to the plaintiff, with legal interest thereon from the time the obligation accrued and with court costs.

Arkansas

Ark. Stat. Ann. §25-44-101 et seq.

Ark. Stat. Ann. §25-44-201 et seq.

Ark. Stat. Ann. §25-44-215

(a) With the exception of death and disability benefit claims paid under section 21-5-701 et seq., the Arkansas State Claims Commission shall not pay an award in excess of $15,000.

(b) If an award is greater than $15,000, the commission shall refer the claim or action to the General Assembly for approval and, if approved, an appropriation.

Ark. Stat. Ann. §21-9-201 et seq.

Ark. Stat. Ann. §21-9-203

(a) The state of Arkansas shall pay actual, but not punitive, damages adjudged by a state or federal court, or entered by such a court as a result of a compromise settlement approved and recommended by the attorney general, against officers or employees of the state of Arkansas, or against the estate of such an officer or employee, based on an act or omission by the officer or employee while acting without malice and in good faith within the course and scope of his or her employment and in the performance of his or her official duties.

(c) Upon the recommendation of the attorney general, the state of Arkansas shall have authority to pay damages based on an act or omission by an officer or employee of the state of Arkansas while acting without malice and in good faith within the course and scope of his or her employment and in the performance of his or her official duties, where the amount of damages is determined by negotiated settlement before or after an action has been commenced.

Ark. Stat. Ann. §21-9-204

Damages payable under this subchapter shall be reduced to the extent that the officer or employee has been indemnified or is entitled to indemnification under any contract of insurance.

California

Cal. Government Code §810 et seq.

Cal. Government Code §818

Notwithstanding any other provision of law, a public entity is not liable for damages awarded under section 3294 of the Civil Code or other damages imposed primarily for the sake of example and by way of punishing the defendant.

Cal. Government Code §825

(a) Except as otherwise provided in this section, if an employee or former employee of a public entity requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity and the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action, the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed.

(b) Notwithstanding subdivision (a) or any other provision of law, a public entity is authorized to pay that part of a judgment that is for punitive or exemplary damages as specified.

(e) Nothing in this section shall affect the provisions of section818 prohibiting the award of punitive damages against a public entity.

Cal. Government Code §900 et seq.

Cal. Government Code §940 et seq.

Cal. Government Code §962

Upon entry of a verdict against a public entity in excess of $100,000 in an action for personal injury or wrongful death, the public entity may, within the time set in section 659 of the Code of Civil Procedure, request in writing a mandatory settlement conference for the purpose of discussing available methods by which the judgment shall be satisfied. The court shall then set a date for the conference. The request may be noticed with any motions pursuant to section 984 and section 985 of the Government Code or section 659 of the Code of Civil Procedure. At the conference the parties shall negotiate in good faith and shall review and consider structured payment plans presented by either party. The conference shall not occur until after determination of any motion for a new trial, motion for judgment notwithstanding the verdict, motion for remittitur and motion for additur, but shall occur before hearing on any motions pursuant to section 984 and section 985.

The Judicial Council shall adopt rules providing for a reasonable extension of the time for filing the notice of appeal from a judgment on the verdict to permit a request for the mandatory settlement conference and the mandatory settlement conference itself.

Cal. Government Code §965 et seq.

Colorado

Colo. Rev. Stat. §24-10-101 et seq.

Colo. Rev. Stat. §24-10-114

(1) The maximum amount that may be recovered under this article in any single occurrence, whether from one or more public entities and public employees, shall be: (a) For any injury to one person in any single occurrence, the sum of $350,000; (b) For an injury to two or more persons in any single occurrence, the sum of $990,000; except that, in such instance, no person may recover in excess of $350,000. (c) The amounts specified in subsections (a) and (b) of this subsection (1) shall be adjusted by an amount reflecting the percentage change over a four-year period in the U.S. Department of Labor, Bureau of Labor Statistics, consumer price index for Denver-Boulder-Greeley, all items, all urban consumers, or its successor index. On or before Jan. 1, 2018, and by Jan. 1 every fourth year thereafter, the secretary of state shall calculate the adjusted dollar amount for the immediately preceding four-year period as of the date of the calculation. The adjusted amount shall be rounded upward to the nearest $1,000 increment. The secretary of state shall certify the amount of the adjustment for the particular four-year period and shall

publish the amount of the adjustment on the secretary of state's web site.

(2) The governing body of a public entity, by resolution, may increase any maximum amount set out in subsection (1) of this section that may be recovered from the public entity for the type of injury described in the resolution. The amount of the recovery that may be had shall not exceed the amount set out in such resolution for the type of injury described therein. Any such increase may be reduced, increased, or repealed by the governing body by resolution. A resolution adopted pursuant to this subsection (2) shall apply only to injuries occurring subsequent to the adoption of such resolution.

(3) Nothing in this section shall be construed to permit the recovery of damages for types of actions authorized under part 2 of article 21 of title 13, C.R.S., in an amount in excess of the amounts specified in said article.

(4) (a) A public entity shall not be liable either directly or by indemnification for punitive or exemplary damages or for damages for outrageous conduct, except as otherwise determined by a public entity pursuant to section 24-10-118(5).

Connecticut

Conn. Gen. Stat. §4-141 et seq.

Conn. Gen. Stat. §4-158

(a) The claims commissioner, the deputy claims commissioner or a special deputy may (1) order that a claim be denied or dismissed, (2) order immediate payment of a just claim in an amount not exceeding $35,000, (3) recommend to the General Assembly payment of a just claim in an amount exceeding $35,000, or (4) authorize a claimant to sue the state, as provided in section 4-160.

Delaware

Del. Code Ann. tit. 10, §4001 et seq.

District of Columbia

D.C. Code Ann. §2-401 et seq.

D.C. Code Ann. §2-414

In any case involving any claim described in section 2-412 in which the trial court shall consider the verdict excessive, the court may order a remittitur of so much of the amount of such verdict or judgment, as the case may be, as it considers excessive, and either permit the party in whose favor the verdict was rendered or the party recovering such judgment, as the case may be, to file a remittitur.

Florida

Fla. Stat. §768.28

(5)(a) The state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability shall not include punitive damages or interest for the period before judgment. Neither the state nor its agencies or subdivisions shall be liable to pay a claim or a judgment by any one person which exceeds the sum of $200,000 or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of

$300,000. However, a judgment or judgments may be claimed and rendered in excess of these amounts and may be settled and paid pursuant to this act up to $200,000 or $300,000, as the case may be; and that portion of the judgment that exceeds these amounts may be reported to the Legislature, but may be paid in part or in whole only by further act of the Legislature. Notwithstanding the limited waiver of sovereign immunity provided herein, the state or an agency or subdivision thereof may agree, within the limits of insurance coverage provided, to settle a claim made or a judgment rendered against it without further action by the Legislature, but the state or agency or subdivision thereof shall not be deemed to have waived any defense of sovereign immunity or to have increased the limits of its liability as a result of its obtaining insurance coverage for tortious acts in excess of the $200,000 or $300,000 waiver provided above. The limitations of liability set forth in this subsection shall apply to the state and its agencies and subdivisions whether or not the state or its agencies or subdivisions possessed sovereign immunity before July 1, 1974.

Fla. Stat. §11.065

Fla. Stat. §11.066

Georgia

Ga. Code §50-21-20 et seq.

Ga. Code §50-21-29

(b)(1) Except as provided for in paragraph (2) of this subsection, in any action or claim for damages brought under the provisions of this article, no person shall recover a sum exceeding $1 million because of loss arising from a single occurrence, regardless of the number of state government entities involved; and the state's aggregate liability per occurrence shall not exceed $3 million. The existence of these caps on liability shall not be disclosed or suggested to the jury during the trial of any action brought under this article.

(2) In any action or claim for damages brought under the provisions of this article pursuant to Article 8 of Chapter 8 of Title 31, any caps specified under Code section 51-13-1, notwithstanding any applicability limitations specified in such Code section, shall serve as a total cap of all damages, regardless of the type of damages claimed; provided, however, that in no event shall the state's liability exceed the limits provided for in paragraph (1) of this subsection. The existence of this cap on liability shall not be disclosed or suggested to the jury during the trial of any action brought under this article.

Ga. Code §50-21-30

No award for damages under this article shall include punitive or exemplary damages or interest prior to judgment.

Ga. Code §28-5-60 et seq.

Guam

Guam Code Ann. tit. 5, §6101 et seq.

Guam Code Ann. tit. 5, §6301

(a) In all cases, neither line agencies nor autonomous agencies nor the government of Guam shall be liable for interest prior to the date of judgment, nor for any punitive damages, nor for attorney's fees of the claimant; provided, that attorney's fees may be awarded a successful claimant as part of a final court judgment if the court finds that suit was filed only because the government of Guam failed to act upon the claim before the expiration of the time specified in section 6208(b) of this Chapter and such failure resulted from failure to investigate the claim.

(b) The government of Guam, in the case of line agencies, shall be liable in tort for not more than $200,000 in an action for wrongful death, nor for more than $500,000 in any other tort action.

(c) Each autonomous agency shall be liable for torts committed by it for not more than the amounts stated in subsection (b), above.

Hawaii

Hawaii Rev. Stat. §662-1 et seq.

Hawaii Rev. Stat. §662-2

The state hereby waives its immunity for liability for the torts of its employees and shall be liable in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

Hawaii Rev. Stat. §37-77

The attorney general shall consult with the governor prior to entering into any settlement agreement for awards exceeding $75,000 that are subject to legislative approval.

Hawaii Rev. Stat. §41D-1 et seq.

Idaho

Idaho Code §6-901 et seq.

Idaho Code §6-903

Except as otherwise provided in this act, every governmental entity is subject to liability for money damages arising out of its negligent or otherwise wrongful acts or omissions and those of its employees acting within the course and scope of their employment or duties, whether arising out of a governmental or proprietary function, where the governmental entity if a private person or entity would be liable for money damages under the laws of the state of Idaho, provided that the governmental entity is subject to liability only for the pro rata share of the total damages awarded in favor of a claimant which is attributable to the negligent or otherwise wrongful acts or omissions of the governmental entity or its employees.

Idaho Code §6-918

Governmental entities and their employees shall not be liable for punitive damages on any claim allowed under the provisions of this act.

Idaho Code §67-1023

Illinois

Ill. Rev. Stat. ch. 705, §505/1 et seq.

Ill. Rev. Stat. ch. 705, §505/8

(d) All claims against the state for damages in cases sounding in tort, if a like cause of action would lie against a private person or corporation in a civil suit, and all like claims sounding in tort against the Medical Center Commission, the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of

Northern Illinois University, the Board of Trustees of Western Illinois University, or the Board of Trustees of the Illinois Mathematics and Science Academy; provided, that an award for damages in a case sounding in tort, other than certain cases involving the operation of a State vehicle described in this paragraph, shall not exceed the sum of $2 million to or for the benefit of any claimant. The $2 million limit prescribed by this Section does not apply to an award of damages in any case sounding in tort arising out of the operation by a state employee of a vehicle owned, leased or controlled by the state. The defense that the state or the Medical Center Commission or the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, or the Board of Trustees of the Illinois Mathematics and Science Academy is not liable for the negligence of its officers, agents, and employees in the course of their employment is not applicable to the hearing and determination of such claims. The changes to this section made by this amendatory act of the 100th General Assembly apply only to claims filed on or after July 1, 2015.

The court shall annually adjust the maximum awards authorized by this subsection to reflect the increase, if any, in the Consumer Price Index for All Urban Consumers for the previous calendar year, as determined by the U.S. Department of Labor. The comptroller shall make the new amount resulting from each annual adjustment available to the public via the comptroller's official website by Jan. 31 of every year.

Ill. Rev. Stat. ch. 745, §5/1 et seq.

Indiana

Ind. Code §34-13-3-1 et seq.

Ind. Code §34-13-3-4

(a) The combined aggregate liability of all governmental entities and of all public employees, acting within the scope of their employment and not excluded from liability under section 3 of this chapter, does not exceed:

(1) for injury to or death of one person in any one occurrence: (A) $300,000 for a cause of action that accrues before Jan. 1, 2006; (B) $500,000 for a cause of action that accrues on or after Jan. 1, 2006, and before Jan. 1, 2008; or (C) $700,000 for a cause of action that accrues on or after Jan. 1, 2008; and (2) for injury to or death of all persons in that occurrence, $5 million.

(b) A governmental entity or an employee of a governmental entity acting within the scope of employment is not liable for punitive damages.

Ind. Code §34-30-7-1

Ind. Code §34-31-3-1

The Tort Claims Act provides a cap on liability of governmental entities and public employees in certain circumstances (IC 34-13-3).

Iowa

Iowa Code §669.1 et seq.

Kansas

Kan. Stat. Ann. §75-6101 et seq.

Kan. Stat. Ann. §75-6105

(a) Subject to the provisions of K.S.A. 75-6111, and amendments thereto, the liability for claims within the scope of this act shall not exceed $500,000 for any number of claims arising out of a single occurrence or accident.

(b) When the amount awarded to or settled upon multiple claimants exceeds the limitations of this section, any party may apply to the district court which has jurisdiction of the cause to apportion to each claimant the proper share of the total amount limited by this section. The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement made to the claimant bears to the aggregate awards and settlements for all claims arising out of the occurrence or accident.

(c) A governmental entity shall not be liable for punitive or exemplary damages or for interest prior to judgment. An employee acting within the scope of the employee's employment shall not be liable for punitive or exemplary damages or for interest prior to judgment, except for any act or omission of the employee because of actual fraud or actual malice.

(d) This section shall not apply to any claim for recovery of damages against a governmental entity arising from childhood sexual abuse as defined in K.S.A. 60523, and amendments thereto.

Kan. Stat. Ann. §75-6109

Except as otherwise provided in the Kansas [tort] claims act, a governmental entity is liable, and shall indemnify its employees against damages, for injury or damage proximately caused by an act or omission of an employee while acting within the scope of his or her employment. A governmental entity shall not be liable under the provisions of this act for any punitive or exemplary damages against an employee, nor for payment of any costs, judgments or settlements which are paid through an applicable contract or policy of insurance. The governmental entity shall have the right to recover any payments made by it for any judgment, or portion thereof, and costs or fees incurred by or on behalf of an employee's defense if the employee fails to cooperate in good faith in the defense of the claim or action or if the trier of fact finds that the act or omission of the employee was because of such employee's actual fraud or actual malice.

Kan. Stat. Ann. §46-907 et seq.

Kentucky

Ky. Rev. Stat. §49.010 et seq.

Ky. Rev. Stat. §49.040

(1) Regardless of any provision of law to the contrary, the jurisdiction of the Board of Claims is exclusive, and a single claim for the recovery of money or a single award of money shall not exceed $250,000, exclusive of interest and costs. However, if a single act of negligence results in multiple claims, the total award may not exceed $400,000, to be equitably divided among the claimants, but in no case may any claimant individually receive more than $250,000.

Louisiana

La. Rev. Stat. Ann. §13:5101 et seq.

La. Rev. Stat. Ann. §13:5106

(B)(1)The total liability of the state and political subdivisions for all damages for personal injury to any one person, including all claims and derivative claims, exclusive of property damages, medical care and related benefits and loss of earnings, and loss of future earnings, as provided in this section, shall not exceed $500,000, regardless of the number of suits filed or claims made for the personal injury to that person.

(2) The total liability of the state and political subdivisions for all damages for wrongful death of any one person, including all claims and derivative claims, exclusive of property damages, medical care and related benefits and loss of earnings or loss of support, and loss of future support, as provided in this section, shall not exceed $500,000, regardless of the number of suits filed or claims made for the wrongful death of that person.

(3)(a) In any suit for personal injury against a political subdivision wherein the court, pursuant to judgment, determines that the claimant is entitled to medical care and related benefits that may be incurred subsequent to judgment, the court shall order that a reversionary trust be established for the benefit of the claimant and that all medical care and related benefits incurred subsequent to judgment be paid pursuant to the reversionary trust instrument. The reversionary trust instrument shall provide that such medical care and related benefits be paid directly to the provider as they are incurred. Nothing in this Paragraph shall be construed to prevent the parties from entering into a settlement or compromise at any time whereby medical care and related benefits shall be provided, but with the requirement of establishing a reversionary trust.

(b) Any funds remaining in a reversionary trust that is created pursuant to subparagraph (3)(a) of this subsection shall revert to the political subdivision that established the trust, upon the death of the claimant or upon the termination of the trust as provided in the trust instrument. The trustee may obtain the services of an administrator to assist in the administration of the trust. All costs, fees, taxes, or other charges imposed on the funds in the trust shall be paid by the trust. The trust agreement may impose such other reasonable duties, powers, provisions, and dispute resolution clauses as may be deemed necessary or appropriate. Disputes as to the administration of the trust can be appealed to the district court. Nothing in this paragraph shall preclude the political subdivision from establishing other alternative funding mechanisms for the exclusive benefit of the claimant. The terms and conditions of the reversionary trust instrument or other alternative funding mechanism, prior to its implementation, must be approved by the court. The parties to the case may present recommendations to the court for the terms and conditions of the trust instrument or other funding mechanism to be included in the order. Upon request of either party, the court shall hold a contradictory hearing before granting a final order implementing the reversionary trust or the alternative funding mechanism.

(c) In any suit for personal injury against the state or a state agency wherein the court pursuant to judgment determines that the claimant is entitled to medical care and related benefits that may be incurred subsequent to judgment, all such medical care and related benefits incurred subsequent to judgment shall be paid from the Future Medical Care Fund as provided in R.S. 39:1533.2. Medical care and related benefits shall be paid directly to the provider as they are incurred. Nothing in this subparagraph shall be construed to prevent the parties from entering into a settlement or compromise at any time whereby medical care and related benefits shall be provided but with the requirement that they shall be paid in accordance with this subparagraph.

La. Rev. Stat. Ann. §39:1538

Maine

Me. Rev. Stat. Ann. tit. 14, §8101 et seq.

Me. Rev. Stat. Ann. tit. 14, §8104-D

Except as otherwise expressly provided by section 8111 or by any other law, and notwithstanding the common law, the personal liability of an employee of a governmental entity for negligent acts or omissions within the course and scope of employment shall be subject to a limit of $10,000 for any such claims arising out of a single occurrence and the employee is not liable for any amount in excess of that limit on any such claims.

Me. Rev. Stat. Ann. tit. 14, §8105

1. Limit established. In any claim or cause of action permitted by this chapter, the award of damages, including costs, against either a governmental entity or its employees, or both, may not exceed $400,000 for any and all claims arising out of a single occurrence.

3. When a claimant or several claimants believe they may have a claim against the state in excess of the limit established in subsection 1, or for a claim for which the state is immune, they may apply to the Legislature for special authorization to proceed within another specified limit.

5. Exclusion from judgment or award. No judgment or award against a governmental entity shall include punitive or exemplary damages.

Me. Rev. Stat. Ann. tit. 5, §1510-A

Maryland

Md. Courts and Judicial Proceedings Code Ann. §5-522

(a) Immunity of the state is not waived under section 12-104 of the State Government Article for:

(1) Punitive damages;

(2) Interest before judgment;

(3) A claim that arises from the combatant activities of the State Militia during a state of emergency;

(4) Any tortious act or omission of State personnel that:

(i) Is not within the scope of the public duties of the State personnel; or

(ii) Is made with malice or gross negligence;

(5) A claim by an individual arising from a single incident or occurrence that exceeds the amount specified in section 12-104 of the State Government Article; or

(6) A cause of action that law specifically prohibits.

Md. State Government Code Ann. §12-101 et seq.

Md. State Government Code Ann. §12-104

(a)(1) Subject to the exclusions and limitations in this subtitle and notwithstanding any other provision of law, the immunity of the state and of its units is waived as to a tort action, in a court of the state, to the extent provided under paragraph (2) of this subsection.

(2)(i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, the liability of the state and its units may not exceed $400,000 to a single claimant for injuries arising from a single incident or occurrence.

(ii) If liability of the state or its units arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability shall apply:

1. subject to item 2 of this subparagraph, the combined award for both economic and noneconomic damages may not exceed a total of $890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and

2. in a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation established under item 1 of this item, regardless of the number of claimants or beneficiaries who share in the award.

(iii) If liability of the state or its units arises under one or more claims of sexual abuse, as defined in section 5-117 of the Courts Article, that occurred when the claimant was a minor:

1. Except as provided in item 2 of this paragraph, the liability may not exceed

$890,000 to a single claimant for injuries arising from the claim or claims; and 2. for an action filed on or after June 1, 2025, that would have been barred by a time limitation before Oct. 1, 2023, the liability may not exceed $400,000 to a single claimant for injuries arising from the claim or claims.

(b) Immunity is not waived under this section as described under section 5522(a) of the Courts and Judicial Proceedings Article.

(c)(1) the treasurer may pay from the state Insurance Trust Fund all or part of that portion of a tort claim which exceeds the limitation on liability established under subsection (a)(2) of this section under the following conditions:

(i) the tort claim is one for which the state and its units have waived immunity under subsections (a) and (b) of this section;

(ii) a judgment or settlement has been entered granting the claimant damages to the full amount established under subsection (a)(2) of this section; and (iii) the Board of Public Works, with the advice and counsel of the attorney general, has approved the payment.

(2) Any payment of part of a settlement or judgment under this subsection does not abrogate the sovereign immunity of the state or any units beyond the waiver provided in subsections (a) and (b) of this section.

Massachusetts

Mass. Gen. Laws Ann. ch. 258, §1 et seq.

Mass. Gen. Laws Ann. ch. 258, §2

Public employers shall be liable for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any public employee while acting within the scope of his office or employment, in the same manner and to the same extent as a private individual under like circumstances, except that public employers shall not be liable to levy of execution on any real and personal property to satisfy judgment, and shall not be liable for interest prior to judgment or for punitive damages or for any amount in excess of

$100,000; provided, however, that all claims for serious bodily injury against the Massachusetts Bay Transportation Authority shall not be subject to a $100,000 limitation on compensatory damages.

Michigan

Mich. Comp. Laws §691.1401 et seq.

Mich. Comp. Laws §691.1418 [Liability for sewage disposal system event] (1) Except as provided in subsection (2), economic damages are the only compensation for a claim under section 17. Except as provided in subsection (2), a court shall not award and a governmental agency shall not pay noneconomic damages as compensation for an event.

(2) A governmental agency remains subject to tort liability for noneconomic damages caused by an event only if the claimant or the individual on whose behalf the claimant is making the claim has suffered death, serious impairment of body function, or permanent serious disfigurement.

Mich. Comp. Laws §600.6401 et seq.

Minnesota

Minn. Stat. §3.732 et seq.

Minn. Stat. §3.736

Subd. 4. Limits. The total liability of the state and its employees acting within the scope of their employment on any tort claim shall not exceed: (a) $300,000 when the claim is one for death by wrongful act or omission and $300,000 to any claimant in any other case, for claims arising before Aug. 1, 2007; (b) $400,000 when the claim is one for death by wrongful act or omission and $400,000 to any claimant in any other case, for claims arising on or after Aug. 1, 2007, and before July 1, 2009; (c) $500,000 when the claim is one for death by wrongful act or omission and $500,000 to any claimant in any other case, for claims arising on or after July 1, 2009; (d) $750,000 for any number of claims arising out of a single occurrence, for claims arising on or after Jan. 1, 1998, and before Jan. 1, 2000; (e) $1 million for any number of claims arising out of a single occurrence, for claims arising on or after Jan. 1, 2000, and before Jan. 1, 2008; (f) $1.2 million for any number of claims arising out of a single occurrence, for claims arising on or after Jan. 1, 2008, and before July 1, 2009; (g) $1.5 million for any number of claims arising out of a single occurrence, for claims arising on or after July 1, 2009; or (h) $1 million for any number of claims arising out of a single occurrence, if the claim involves a nonprofit organization engaged in or administering outdoor recreational activities funded in whole or in part by the state or operating under the authorization of a permit issued by an agency or department of the state. If the amount awarded to or settled upon multiple claimants exceeds the applicable limit under clause (d), (e), (f), (g), or (h), any party may apply to the district court to apportion to each claimant a proper share of the amount available under the applicable limit under clause (d), (e), (f), or (g). The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement bears to the aggregate awards and settlements for all claims arising out of the occurrence.

The limitation imposed by this subdivision on individual claimants includes damages claimed for loss of services or loss of support arising out of the same tort.

Subd. 4a. Securities claims limits. The total liability of the state and its employees acting within the scope of their employment on any claim of whatever matter arising from the issuance and sale of securities by the state shall not exceed: (a) $100,000 to any one person or (b) $500,000 to all claimants in respect of the securities of the same series.

The limitations in clauses (a) and (b) shall not affect the obligation of the issuing state entity to pay the indebtedness under the securities in accordance with their terms and from the sources pledged to their payment.

Mississippi

Miss. Code Ann. §11-45-1 et seq.

Miss. Code Ann. §11-46-1 et seq.

Miss. Code Ann. §11-46-15

(1) In any claim or suit for damages against a governmental entity or its employee brought under the provisions of this chapter, the liability shall not exceed the following for all claims arising out of a single occurrence for all damages permitted under this chapter: (a) For claims or causes of action arising from acts or omissions occurring on or after July 1, 1993, but before July 1, 1997, the sum of $50,000; (b) For claims or causes of action arising from acts or omissions occurring on or after July 1, 1997, but before July 1, 2001, the sum of $250,000; (c) For claims or causes of action arising from acts or omissions occurring on or after July 1, 2001, the sum of $500,000.

(2) No judgment against a governmental entity or its employee for any act or omission for which immunity is waived under this chapter shall include an award for exemplary or punitive damages or for interest prior to judgment, or an award of attorney's fees unless attorney's fees are specifically authorized by law. (3) Except as otherwise provided in section 11-46-17(4), in any suit brought under the provisions of this chapter, if the verdict which is returned, when added to costs and any attorney's fees authorized by law, would exceed the maximum dollar amount of liability provided in subsection (1) of this section, the court shall reduce the verdict accordingly and enter judgment in an amount not to exceed the maximum dollar amount of liability provided in subsection (1) of this section.

Missouri

Mo. Rev. Stat. §537.600 et seq.

Mo. Rev. Stat. §537.610

2. The liability of the state and its public entities on claims within the scope of sections 537.600 to 537.650, shall not exceed $2 million for all claims arising out of a single accident or occurrence and shall not exceed $300,000 for any one person in a single accident or occurrence, except for those claims governed by the provisions of the Missouri workers' compensation law, chapter 287, RSMo.

3. No award for damages on any claim against a public entity within the scope of sections 537.600 to 537.650, shall include punitive or exemplary damages. 4. If the amount awarded to or settled upon multiple claimants exceeds $2 million dollars, any party may apply to any circuit court to apportion to each claimant his proper share of the total amount limited by subsection 1 of this section. The share apportioned each claimant shall be in the proportion that the ratio of the award or settlement made to him bears to the aggregate awards and settlements for all claims arising out of the accident or occurrence, but the share shall not exceed $300,000.

5. The limitation on awards for liability provided for in this section shall be increased or decreased on an annual basis effective Jan. 1 of each year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the U.S. Department of Commerce. The current value of the limitation shall be calculated by the director of the department of insurance, financial institutions and professional registration, who shall furnish that value to the secretary of state, who shall publish such value in the Missouri Register as soon after each Jan. 1 as practicable, but it shall otherwise be exempt from the provisions of section 536.021.

Montana

Mont. Code Ann. §2-9-101 et seq.

Mont. Code Ann. §2-9-105

The state and other governmental entities are immune from exemplary and punitive damages.

Mont. Code Ann. §2-9-108

The state, a county, municipality, taxing district, or any other political subdivision of the state is not liable in tort action for damages suffered as a result of an act or omission of an officer, agent, or employee of that entity in excess of $750,000 for each claim and $1.5 million for each occurrence.

Mont. Code Ann. §2-9-301 et seq.

Nebraska

Neb. Rev. Stat. §25-21,201 et seq.

Neb. Rev. Stat. §81-8,209 et seq.

Neb. Rev. Stat. §81-8,215

In all suits brought under the state Tort Claims Act, the state shall be liable in the same manner and to the same extent as a private individual under like circumstances, except that no writ of execution shall issue, and the disposition of or offer to settle any claim made under such act shall not be competent evidence of liability of the state or any employee of the state or the amount of damages.

Nevada

Nev. Rev. Stat. §41.0305 et seq.

Nev. Rev. Stat. §41.035

1. An award for damages in an action sounding in tort brought under NRS 41.031 or against a present or former officer or employee of the State or any political subdivision, immune contractor or state legislator arising out of an act or omission within the scope of the person's public duties or employment may not exceed the sum of $200,000, exclusive of interest computed from the date of judgment, to or for the benefit of any claimant. An award may not include any amount as exemplary or punitive damages.

2. The limitations of subsection 1 upon the amount and nature of damages which may be awarded apply also to any action sounding in tort and arising from any recreational activity or recreational use of land or water which is brought against: (a) Any public or quasi-municipal corporation organized under the laws of this state. (b) Any person with respect to any land or water leased or otherwise made available by that person to any public agency. (c) Any Indian tribe, band or community whether or not a fee is charged for such activity or use. The provisions of this paragraph do not impair or modify any immunity from liability or action existing on Feb. 26, 1968, or arising after Feb. 26, 1968, in favor of any Indian tribe, band or community.

The Legislature declares that the purpose of this subsection is to effectuate the public policy of the state of Nevada by encouraging the recreational use of land, lakes, reservoirs and other water owned or controlled by any public or quasimunicipal agency or corporation of this state, wherever such land or water may be situated.

New Hampshire

N.H. Rev. Stat. Ann. §14:35-b

N.H. Rev. Stat. Ann. §541-B:1 et seq.

N.H. Rev. Stat. Ann. §541-B:14

I. All claims arising out of any single incident against any agency for damages in tort actions shall be limited to an award not to exceed $475,000 per claimant and $3.75 million per any single incident, or the proceeds from any insurance policy procured pursuant to RSA 507-B, whichever amount is greater; except that no claim for punitive damages may be awarded under this chapter. The limits applicable to any action shall be the limits in effect at the time of the judgment or stipulated settlement.

II. If a claim is filed against the state for time unjustly served in the state prison when a person is found to be innocent of the crime for which he was convicted, such a claim shall be limited to an award not to exceed $20,000.

III. The payment of interest shall be granted on any award authorized under this chapter at the rate provided in RSA 336:1 in the same manner as is provided for in civil actions generally.

New Jersey

N.J. Rev. Stat. §59:1-1 et seq.

N.J. Rev. Stat. §59:2-2

a. A public entity is liable for injury proximately caused by an act or omission of a public employee within the scope of his employment in the same manner and to the same extent as a private individual under like circumstances.

b. A public entity is not liable for an injury resulting from an act or omission of a public employee where the public employee is not liable.

N.J. Rev. Stat. §59:9-2

a. No interest shall accrue prior to the entry of judgment against a public entity or public employee.

b. No judgment shall be granted against a public entity or public employee on the basis of strict liability, implied warranty, or products liability.

c. No punitive or exemplary damages shall be awarded against a public entity.

d. (1) Except as provided in this subsection, no damages shall be awarded against a public entity or public employee for pain and suffering resulting from any injury.

(2) The limitation on the recovery of damages for pain and suffering pursuant to paragraph (1) of this subsection shall not apply:

(a) in cases of permanent loss of a bodily function, permanent disfigurement, or dismemberment where the medical treatment expenses are in excess of $3,600; or

(b) to an action at law filed pursuant to section 7 of P.L.2019, c. 120 (C.59:2-1.3). For purposes of this section, “medical treatment expenses” are defined as the reasonable value of services rendered for necessary surgical, medical, and dental treatment of the claimant for such injury, sickness, or disease, including prosthetic devices and ambulance, hospital, or professional nursing service.

e. If a claimant receives or is entitled to receive benefits for the injuries allegedly incurred from a policy or policies of insurance or any other source other than a joint tortfeasor, such benefits shall be disclosed to the court and the amount thereof which duplicates any benefit contained in the award shall be deducted from any award against a public entity or public employee recovered by such claimant, provided, however, that nothing in this provision shall be construed to limit the rights of a beneficiary under a life insurance policy. No insurer or other person shall be entitled to bring an action under a subrogation provision in an insurance contract against a public entity or public employee.

New Mexico

N.M. Stat. Ann. §41-4-1 et seq.

N. M. Stat. Ann. §41-4-4

C. A governmental entity shall pay any award for punitive or exemplary damages awarded against a public employee under the substantive law of a jurisdiction other than New Mexico, including other states, territories and possessions and the United States of America, if the public employee was acting within the scope of his duty.

N.M. Stat. Ann. §41-4-19

A. Unless limited by Subsection B of this section, in any action for damages against a governmental entity or a public employee while acting within the scope of the employee's duties as provided in the Tort Claims Act, the liability shall not exceed: (1) the sum of $200,000 for each legally described real property for damage to or destruction of that legally described real property arising out of a single occurrence; (2) the sum of $300,000 for all past and future medical and medically related expenses arising out of a single occurrence; and (3) the sum of

$400,000 to any person for any number of claims arising out of a single occurrence for all damages other than real property damage and medical and medically related expenses as permitted under the Tort Claims Act. B. The total liability for all claims pursuant to paragraphs (1) and (3) of

Subsection A of this section that arise out of a single occurrence shall not exceed $750,000.

C. Interest shall be allowed on judgments against a governmental entity or public employee for a tort for which immunity has been waived under the Tort Claims Act at a rate equal to two percentage points above the prime rate as published in the Wall Street Journal on the date of the entry of the judgment. Interest shall be computed daily from the date of the entry of the judgment until the date of payment.

D. No judgment against a governmental entity or public employee for any tort for which immunity has been waived under the Tort Claims Act shall include an award for exemplary or punitive damages or for interest prior to judgment.

N.M. Stat. Ann. §41-13-1 et seq.

New York

N.Y. Civil Practice Law & Rules §8600 et seq.

N.Y. Civil Practice Law & Rules §8601

(a) When awarded. In addition to costs, disbursements and additional allowances awarded pursuant to section 8201 through 8204 and section 8301 through 8303 of this chapter, and except as otherwise specifically provided by statute, a court shall award to a prevailing party, other than the state, fees and other expenses incurred by such party in any civil action brought against the state, unless the court finds that the position of the state was substantially justified or that special circumstances make an award unjust.

N.Y. Court of Claims Act §1 et seq.

N.Y. Court of Claims Act §8

The state hereby waives its immunity from liability and action and hereby assumes liability and consents to have the same determined in accordance with the same rules of law as applied to actions in the supreme court against individuals or corporations, provided the claimant complies with the limitations of this article. Nothing herein contained shall be construed to affect, alter or repeal any provision of the workmen's compensation law.

North Carolina

N.C. Gen. Stat. §143-291 et seq.

N.C. Gen. Stat. §143-299.2

(a) The maximum amount that the state may pay cumulatively to all claimants on account of injury and damage to any one person arising out of any one occurrence, whether the claim or claims are brought under this Article, or Article 31A or Article 31B of this Chapter, shall be $1 million, less any commercial liability insurance purchased by the State and applicable to the claim or claims under G.S. 143-291(b), 143-300.6(c), or 143-300.16(c).

(b) The fact that a claim or claims may be brought under more than one Article under this Chapter shall not increase the above maximum liability of the state.

North Dakota

N.D. Cent. Code §32-12-01 et seq.

N.D. Cent. Code §32-12.2-01 et seq.

N.D. Cent. Code §32-12.2-02

Effective July 1, 2022, until June 30, 2026
2. The liability of the state under this chapter is limited to a total of $468,750 per person and $1,875 million for any number of claims arising from any single occurrence. The state may not be held liable, or be ordered to indemnify a state employee held liable, for punitive or exemplary damages. Any amount of a judgment against the state in excess of the $1,875 million limit imposed under this subsection may be paid only if the Legislative Assembly adopts an appropriation authorizing payment of all or a portion of that amount. A claimant may present proof of the judgment to the director of the office of management and budget who shall include within the proposed budget for the office of management and budget a request for payment for the portion of the judgment in excess of the limit under this section at the next regular session of the Legislative Assembly after the judgment is rendered.

Effective June 30, 2026
2. The liability of political subdivisions under this chapter is limited to a total of $500,000 per person and $1.2 million for any number of claims arising from any single occurrence regardless of the number of political subdivisions, or employees of such political subdivisions, which are involved in that occurrence. A political subdivision may not be held liable, or be ordered to indemnify an employee held liable, for punitive or exemplary damages.

N. Mariana Islands

C.N.M.I. Code Ann. tit. 7, §2201 et seq.

(a) The commonwealth government shall be liable in tort for damages arising from the negligent acts of employees of the commonwealth acting within the scope of their office or employment; provided, that:

(1) The commonwealth and any employees engaged in the performance of services on behalf of the commonwealth shall not be liable in tort for more than $50,000 in an action for wrongful death. Liability in other tortious occurrences shall be limited to $100,000 per person, or $200,000 per occurrence.

(2) The commonwealth shall not be liable for interest prior to judgment, court fees, witness fees, or for punitive damages.

(3) If the commonwealth is insured for a greater amount, the governmental liability shall be the same as the insurance coverage.

(4) This section does not in any way impair, limit or modify the rights and obligations under any government insurance policy.

Ohio

Ohio Rev. Code Ann. §2743.01 et seq.

Ohio Rev. Code Ann. §2743.02

(A)(1) The state hereby waives its immunity from liability, except as provided for the office of the state fire marshal in division (G)(1) of section 9.60 and division (B) of section 3737.221 of the Revised Code and subject to division (H) of this section, and consents to be sued, and have its liability determined, in the court of claims created in this chapter in accordance with the same rules of law applicable to suits between private parties, except that the determination of liability is subject to the limitations set forth in this chapter and, in the case of state universities or colleges, in section 3345.40 of the Revised Code, and except as provided in division (A)(2) or (3) of this section. To the extent that the state has previously consented to be sued, this chapter has no applicability. Except in the case of a civil action filed by the state, filing a civil action in the court of claims results in a complete waiver of any cause of action, based on the same act or omission, that the filing party has against any officer or employee, as defined in section 109.36 of the Revised Code. The waiver shall be void if the court determines that the act or omission was manifestly outside the scope of the officer's or employee's office or employment or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

Oklahoma

Okla. Stat. tit. 51, §151 et seq.

Okla. Stat. tit. 51, §154

A. The total liability of the state and its political subdivisions on claims within the scope of The Governmental Tort Claims Act, arising out of an accident or occurrence happening after Oct. 1, 1985, section 151 et seq. of this title, shall not exceed:

1. $75,000 for any claim or to any claimant who has more than one claim for loss of property arising out of a single act, accident, or occurrence;

2. a. $225,000 to any claimant for any number of claims for inconvenience, annoyance, or discomfort in nuisance claims arising out of a single act, accident, or occurrence in a county with a population of less than 150,000 according to the latest federal decennial census, or

b. $275,000 to any claimant for any number of claims for inconvenience, annoyance, or discomfort in nuisance claims arising out of a single act, accident, or occurrence in a county with a population of 150,000 or more according to the latest federal decennial census;

3. a. In no event shall the total liability of the state and its political subdivisions for a claim for nuisance exceed $275,000 per occurrence.

b. In no event shall the total liability of the state and its political subdivisions for a claim arising from municipal sewer overflow exceed $275,000 per occurrence; 4. Except as otherwise provided in this paragraph, $250,000 to any claimant for a claim for any other loss arising out of a single act, accident, or occurrence. The limit of liability for the state or any city or county with a population of 150,000 or more according to the latest federal decennial census, or a political subdivision as defined in subparagraph s of paragraph 12 of section 152 of this title, shall not exceed $375,000. Except, however, the limits of liability for the University Hospitals and state mental health hospitals operated by the Department of Mental Health and Substance Abuse Services for claims arising from medical negligence shall be $300,000. For claims arising from medical negligence by any licensed physician, osteopathic physician or certified nursemidwife rendering prenatal, delivery or infant care services from Sept. 1, 1991, through June 30, 1996, pursuant to a contract authorized by subsection C of section 1-106 of Title 63 of the Oklahoma

Statutes and in conformity with the requirements of section 1-233 of Title 63 of the Oklahoma Statutes, the limits of liability shall be $200,000;

5. $1 million for any number of claims for indemnification pursuant to section 162 of this title arising out of a single occurrence or accident; or

6. $2 million in the aggregate for any number of claims arising out of a single occurrence or accident.

B. 1. Beginning on May 28, 2003, claims shall be allowed for wrongful criminal felony conviction resulting in imprisonment if the claimant has received a full pardon on the basis of a written finding by the governor of actual innocence for the crime for which the claimant was sentenced or has been granted judicial relief absolving the claimant of guilt on the basis of actual innocence of the crime for which the claimant was sentenced. The governor or the court shall specifically state, in the pardon or order, the evidence or basis on which the finding of actual innocence is based.

2. As used in paragraph 1 of this subsection, for a claimant to recover based on “actual innocence”, the individual must meet the following criteria:

a. the individual was charged, by indictment or information, with the commission of a public offense classified as a felony,

b. the individual did not plead guilty to the offense charged, or to any lesser included offense, but was convicted of the offense,

c. the individual was sentenced to incarceration for a term of imprisonment as a result of the conviction,

d. the individual was imprisoned solely on the basis of the conviction for the offense, and

e. (1) in the case of a pardon, a determination was made by either the Pardon and Parole Board or the governor that the offense for which the individual was convicted, sentenced and imprisoned, including any lesser offenses, was not committed by the individual, or

(2) in the case of judicial relief, a court of competent jurisdiction found by clear and convincing evidence that the offense for which the individual was convicted, sentenced and imprisoned, including any lesser included offenses, was not committed by the individual and issued an order vacating, dismissing or reversing the conviction and sentence and providing that no further proceedings can be or will be held against the individual on any facts and circumstances alleged in the proceedings which had resulted in the conviction.

3. A claimant shall not be entitled to compensation for any part of a sentence in prison during which the claimant was also serving a concurrent sentence for a crime not covered by this subsection.

4. The total liability of the state and its political subdivisions on any claim within the scope of The Governmental Tort Claims Act arising out of wrongful criminal felony conviction resulting in imprisonment shall not exceed $175,000.

5. The provisions of this subsection shall apply to convictions occurring on or before May 28, 2003, as well as convictions occurring after May 28, 2003. If a court of competent jurisdiction finds that retroactive application of this subsection is unconstitutional, the prospective application of this subsection shall remain valid.

C. No award for damages in an action or any claim against the state or a political subdivision shall include punitive or exemplary damages.

D. When the amount awarded to or settled upon multiple claimants exceeds the limitations of this section, any party may apply to the district court which has jurisdiction of the cause to apportion to each claimant the claimant’s proper share of the total amount as limited herein. The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement made to each claimant bears to the aggregate awards and settlements for all claims against the state or its political subdivisions arising out of the occurrence. When the amount of the aggregate losses presented by a single claimant exceeds the limits of paragraph 1, 2, 3, or 4 of subsection A of this section, each person suffering a loss shall be entitled to that person's proportionate share.

E. The total liability of resident physicians and interns while participating in a graduate medical education program of the University of Oklahoma College of Medicine, its affiliated institutions and the Oklahoma State University College of Osteopathic Medicine shall not exceed $150,000.

F. The total liability of a public trust hospital and physician for the acts of a physician who provides medical services on the premises of a public trust hospital, as provided by section 152 of this title, that is located in a county with a population of fewer than 75,000 according to the latest federal decennial census, but who is not employed by such hospital, shall not exceed $1 million. If the physician is employed by another group or entity not under the sole or majority control of the physician, the total limit of liability of the physician and hospital shall be the higher coverage afforded by the liability policy, self-insurance, or assets of that group or entity.

G. For claims within the scope of The Governmental Tort Claims Act, the liability limits in this section for claims on or after the effective date of this act shall be adjusted beginning Jan. 1, 2031, and every five years thereafter for inflation to reflect the lesser of the percentage change in the Consumer Price Index published by the Bureau of Labor Statistics of the U.S. Department of Labor for such period or 4% in any five-year period.

H. The state or a political subdivision may petition the court that all parties and actions arising out of a single accident or occurrence shall be joined as provided by law, and upon order of the court the proceedings upon good cause shown shall be continued for a reasonable time or until such joinder has been completed. The state or political subdivision shall be allowed to interplead in any action which may impose on it any duty or liability pursuant to The Governmental Tort Claims Act.

I. The liability of the state or political subdivision under The Governmental Tort Claims Act shall be several from that of any other person or entity, and the state or political subdivision shall only be liable for that percentage of total damages that corresponds to its percentage of total negligence. Nothing in this section shall be construed as increasing the liability limits imposed on the state or political subdivision under The Governmental Tort Claims Act.

Oregon

Or. Rev. Stat. §30.260 et seq.

Or. Rev. Stat. §30.269

(1) Punitive damages may not be awarded on any claim subject to ORS 30.260 to 30.300.

(2) Claims subject to ORS 30.260 to 30.300 are not subject to the limitation imposed by ORS 31.710.

(3) A court may not apply the limitations imposed on recovery under ORS 30.271, 30.272 and 30.273 until after the entry of a verdict or a stipulation by the parties to the amount of the damages.

(4) The limitations imposed under ORS 30.271 (2) and 30.272 (2) on single claimants include damages claimed for loss of services or loss of support arising out of the same tort.

(5) If two or more claimants recover on a claim that arises out of a single accident or occurrence, and the recovery is subject to a limitation imposed by ORS 30.271 (3), 30.272 (3) or 30.273 (2)(b), any party to the action in which the claim is made may apply to the court to apportion to each claimant the proper share of the amount allowed by ORS 30.271 (3), 30.272 (3) or 30.273 (2)(b). The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement made to the claimant bears to the aggregate awards and settlements for all claims arising out of the accident or occurrence.

(6) Liability of any public body and one or more of its officers, employees or agents, or two or more officers, employees or agents of a public body, on claims arising out of a single accident or occurrence, may not exceed in the aggregate the amounts allowed by ORS 30.271, 30.272 and 30.273.

(7) ORS 30.271, 30.272 and 30.273 do not apply to a claim arising in connection with a nuclear incident covered by an insurance or indemnity agreement under 42 U.S.C. 2210.

(8) For the purposes of the limitations imposed by ORS 30.271, 30.272 and 30.273, events giving rise to a declaration of a state of emergency under ORS 401.165, or a declaration of a state of public health emergency under ORS 433.441, do not constitute a single accident or occurrence.

Or. Rev. Stat. §30.271

(2) The liability of the state, and the liability of the state's officers, employees and agents acting within the scope of their employment or duties, to any single claimant for claims described in subsection (1) of this section may not exceed: (a) $1.5 million, for causes of action arising on or after Dec. 28, 2007, and before July 1, 2010. (b) $1.6 million, for causes of action arising on or after July 1, 2010, and before July 1, 2011. (c) $1.7 million, for causes of action arising on or after July 1, 2011, and before July 1, 2012. (d) $1.8 million, for causes of action arising on or after July 1, 2012, and before July 1, 2013. (e) $1.9 million, for causes of action arising on or after July 1, 2013, and before July 1, 2014. (f) $2 million, for causes of action arising on or after July 1, 2014, and before July 1, 2015. (g) The adjusted limitation provided by subsection (4) of this section, for causes of action arising on or after July 1, 2015.

(3) The liability of the state, and the liability of the state's officers, employees and agents acting within the scope of their employment or duties, to all claimants for claims described in subsection (1) of this section may not exceed: (a) $3 million, for causes of action arising on or after Dec. 28, 2007, and before July 1, 2010. (b) $3.2 million, for causes of action arising on or after July 1, 2010, and before July 1, 2011. (c) $3.4 million, for causes of action arising on or after July 1, 2011, and before July 1, 2012. (d) $3.6 million, for causes of action arising on or after July 1, 2012, and before July 1, 2013. (e) $3.8 million, for causes of action arising on or after July 1, 2013, and before July 1, 2014. (f) $4 million, for causes of action arising on or after July 1, 2014, and before July 1, 2015. (g) The adjusted limitation provided by subsection (4) of this section, for causes of action arising on or after July 1, 2015.

(4) Beginning in 2015, and every year thereafter, the state court administrator shall determine the percentage increase or decrease in the cost of living for the previous calendar year, based on changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the U.S. Department of Labor. On or before July 1 of the year in which the state court administrator makes the determination required by this subsection, the state court administrator shall adjust the limitations imposed under subsections (2) and (3) of this section for the following calendar year by multiplying the limitation amounts applicable to the calendar year in which the adjustment is made by the percentage amount determined under this subsection. The adjustment may not exceed three percent for any year. The state court administrator shall round the adjusted limitation amount to the nearest $100, but the unrounded amount shall be used to calculate the adjustments to the limitations in subsequent calendar years. The adjusted limitation becomes effective on July 1 of the year in which the adjustment is made, and applies to all causes of action arising on or after July 1 of that year and before July 1 of the subsequent year.

(5) The limitations imposed by this section apply to claims against Oregon Health and Science University.

(6) The limitations imposed by this section apply to claims against the State Fair Council.

Or. Rev. Stat. §30.310 et seq.

Pennsylvania

Pa. Cons. Stat. tit. 42, §8501 et seq.

Pa. Cons. Stat. tit. 42, §8528

(a) General rule.--Actions for which damages are limited by reference to this subchapter shall be limited as set forth in this section.

(b) Amount recoverable.--Damages arising from the same cause of action or transaction or occurrence or series of causes of action or transactions or occurrences shall not exceed $250,000 in favor of any plaintiff or $1,000,000 in the aggregate.

(c) Types of damages recoverable.--Damages shall be recoverable only for: (1) Past and future loss of earnings and earning capacity. (2) Pain and suffering. (3) Medical and dental expenses including the reasonable value of reasonable and necessary medical and dental services, prosthetic devices and necessary ambulance, hospital, professional nursing, and physical therapy expenses accrued and anticipated in the diagnosis, care and recovery of the claimant. (4) Loss of consortium. (5) Property losses, except that property losses shall not be recoverable in claims brought pursuant to section 8522(b)(5) (relating to exceptions to sovereign immunity). (d) Exclusions.--This section shall not apply to damages awarded under section 8522(b)(10).

Puerto Rico

P.R. Code Ann. tit. 32, §3077 et seq.

P.R. Code Ann. tit. 32, §3077

Authorization is hereby granted to sue the commonwealth of Puerto Rico before the Court of First Instance of Puerto Rico for the causes set forth in the following actions:

(a) Actions for damages to persons or property up to the sum of $75,000 caused by a culpable or negligent act or omission of any officer, agent or employee of the commonwealth or of any other person acting in an official capacity within the scope of his/her duty, office or employment; or actions for damages for alleged acts of malpractice to the health professionals who work in the areas of obstetrics, orthopedics, general surgery or trauma exclusively at public health institutions of the commonwealth of Puerto Rico, its dependencies, instrumentalities and/or municipalities, regardless of whether said institutions are being administered or operated by a private entity. Actions for damages to the person or the property for up to the sum of $75,000 caused by a culpable or negligent act or omission of any officer, agent, employee, contractor or consultant or any other person acting in an official capacity and within the scope of his/her duty, office or employment of the Mayagüez Medical Center, Hospital Dr. Ramon Emeterio Betances; or actions for damages for alleged acts of malpractice are also authorized. When because of said act or omission damages are caused to more than one person or when there are several causes of action to which a single prejudiced party is entitled, the compensation for all damages caused by said act or omission may not exceed the sum of $150,000. If according to the conclusions of the court it should arise that the sum of the damages caused to each of the persons exceeds $150,000, the court shall proceed to distribute said sum prorated among the plaintiffs, taking as [basis] the damages suffered by each one. When an action is filed against the commonwealth for damages to the person or to the property, the court shall order, through the publication of edicts in a newspaper of general circulation, that all persons that may have a common interest be notified that they must appear before the court on the date set forth in the edicts so as to jointly proceed to distribute the amount of $150,000 among the plaintiffs, as provided in sections 3077--3092a of this title.

P.R. Code Ann. tit. 32, §3083

The statute of limitations fixed in the applicable laws shall prevail for the actions authorized herein. A judgment against the commonwealth shall in no case include the payment of interest for any period prior to the judgment nor grant punitive damages. The levying of costs shall be governed by regular procedures. The commonwealth may, with the approval of the court, settle any claim against it, once the action has been instituted.

Rhode Island

R.I. Gen. Laws §9-31-1 et seq.

R.I. Gen. Laws §9-31-2

In any tort action against the state of Rhode Island or any political subdivision thereof, any damages recovered therein shall not exceed the sum of $100,000; provided, however, that in all instances in which the state was engaged in a proprietary function in the commission of the tort, or in any situation whereby the state has agreed to indemnify the federal government or any agency thereof for any tort liability, the limitation on damages set forth in this section shall not apply.

R.I. Gen. Laws §9-31-2.1

Agreements between the state and a railroad for the provision of commuter rail service shall provide that the state shall secure and maintain a liability insurance policy covering the liability of the state and the railroad for property damage, personal injury, bodily injury and death arising out of such commuter rail service. Such policy shall name the state as named insured, and the railroad as an additional insured, shall have policy limits of not less than $75 million per occurrence annually and $75 million in the aggregate annually, and shall be subject to self-insured retention in an amount not less than $7.5 million. In no event shall the state or the railroad be liable in excess of the coverage limits of such insurance policy for any and all claims for damage, whether compensatory or punitive, for property damage, personal injury, bodily injury and death arising out of such commuter rail service.

R.I. Gen. Laws §9-31-3

In any tort action against any city or town or any fire district, any damages recovered therein shall not exceed the sum of $100,000; provided, however, that in all instances in which the city or town or fire district was engaged in a proprietary function in the commission of the tort, the limitation of damages set forth in this section shall not apply.

R.I. Gen. Laws §9-31-4

The general assembly may, by special act, authorize actions of tort against cities and towns and fire districts in particular cases in which the amount of damages to be recovered may exceed $100,000.

South Carolina

S.C. Code Ann. §15-78-10 et seq.

S.C. Code Ann. §15-78-120

(a) For any action or claim for damages brought under the provisions of this chapter, the liability shall not exceed the following limits:

(1) Except as provided in section 15-78-120(a)(3), no person shall recover in any action or claim brought hereunder a sum exceeding $300,000 because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(2) Except as provided in section 15-78-120(a)(4), the total sum recovered hereunder arising out of a single occurrence shall not exceed $600,000 regardless of the number of agencies or political subdivisions or claims or actions involved.

(3) No person may recover in any action or claim brought hereunder against any governmental entity and caused by the tort of any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, a sum exceeding $1.2 million because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(4) The total sum recovered hereunder arising out of a single occurrence of liability of any governmental entity for any tort caused by any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, may not exceed $1.2 million regardless of the number of agencies or political subdivisions or claims or actions involved.

(5) The provisions of section 15-78-120(a)(3) and (a)(4) shall in no way limit or modify the liability of a licensed physician or dentist, acting within the scope of his profession, with respect to any action or claim brought hereunder which involved services for which the physician or dentist was paid, should have been paid, or expected to be paid at the time of the rendering of the services from any source other than the salary appropriated by the governmental entity or fees received from any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the secretary of state.

(b) No award for damages under this chapter shall include punitive or exemplary damages or interest prior to judgment.

South Dakota

S.D. Codified Laws Ann. §21-32-1 et seq.

S.D. Codified Laws Ann. §21-32-16

To the extent such liability insurance is purchased pursuant to section 21-32-15 and to the extent coverage is afforded thereunder, the state shall be deemed to have waived the common law doctrine of sovereign immunity and consented to suit in the same manner that any other party may be sued.

Tennessee

Tenn. Code Ann. §9-8-301 et seq.

Tenn. Code Ann. §9-8-307

(d) The state will be liable for actual damages only. No award shall be made unless the facts found by the commission would entitle the claimant to a judgment in an action at law if the state had been a private individual. The state will not be liable for punitive damages and the costs of litigation other than court costs. The state will not be liable for willful, malicious, or criminal acts by state employees, or for acts on the part of state employees done for personal gain. The state may assert any and all defenses, including common law defenses, which would have been available to the officer or employee in an action against such an individual based upon the same occurrence. The state may assert any absolute common law immunities available to the officer or employee, however, good faith common law immunity may not be asserted. If the claimant is successful with any claim filed with the claims commission after Jan. 1, 1985, the state shall pay such interest as the commissioner may determine to be proper, not exceeding the legal rate as provided in section 47-14-121. In contract actions, interest may be awarded, but if the rate of interest is provided in the contract, the award of interest shall be at that rate.

(e) For causes of action arising in tort, the state shall only be liable for damages up to the sum of $300,000 per claimant and $1 million per occurrence. The board of claims is authorized to purchase insurance, on a per claimant or per occurrence basis, for any class of claim. Any recovery covered by such a policy may exceed the monetary limits of this subsection (e), but only up to the policy limit.

Tenn. Code Ann. §20-13-102 et seq.

Texas

Tex. Civil Practice & Remedies Code Ann. §101.001 et seq.

Tex. Civil Practice & Remedies Code Ann. §101.023

(a) Liability of the state government under this chapter is limited to money damages in a maximum amount of $250,000 for each person and $500,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

(b) Except as provided by Subsection (c), liability of a unit of local government under this chapter is limited to money damages in a maximum amount of $100,000 for each person and $300,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

(c) Liability of a municipality under this chapter is limited to money damages in a maximum amount of $250,000 for each person and $500,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

(d) Except as provided by section 78.001, liability of an emergency service organization under this chapter is limited to money damages in a maximum amount of $100,000 for each person and $300,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

Tex. Civil Practice & Remedies Code Ann. §101.024

This chapter does not authorize exemplary damages.

Tex. Civil Practice & Remedies Code Ann. §109.001 et seq.

Utah

Utah Code Ann. §63G-7-101 et seq.

Utah Code Ann. §63G-7-603

(1) (a) A judgment may not be rendered against a governmental entity for exemplary or punitive damages. (b) If a governmental entity would be required to pay the judgment under section 63G-7-902 or section 63G-7-903, the governmental entity shall pay any judgment or portion of any judgment entered against its employee in the employee's personal capacity even if the judgment is for or includes exemplary or punitive damages.

(2) (a) Except as provided in Subsection (2)(b), execution, attachment, or garnishment may not issue against a governmental entity. (b) A judgment creditor may garnish a state income tax refund owing to the judgment debtor.

Utah Code Ann. §63G-7-604

(1)(a) Except as provided in Subsection (2) and subject to Subsection (3), if a judgment for damages for personal injury against a governmental entity, or an employee whom a governmental entity has a duty to indemnify, exceeds $583,900 for one person in any one occurrence, the court shall reduce the judgment to that amount. (b) A court may not award judgment of more than the amount in effect under Subsection (1)(a) for injury or death to one person regardless of whether or not the function giving rise to the injury is characterized as governmental. (c) Except as provided in Subsection (2) and subject to Subsection (3), if a judgment for property damage against a governmental entity, or an employee whom a governmental entity has a duty to indemnify, exceeds $233,600 in any one occurrence, the court shall reduce the judgment to that amount, regardless of whether or not the function giving rise to the damage is characterized as governmental. (d) Subject to Subsection (3), there is a $3 million limit to the aggregate amount of individual awards that may be awarded in relation to a single occurrence.

(2) The damage limits established in this section do not apply to damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation.

(3) The limitations of judgments established in Subsection (1) shall be adjusted according to the methodology set forth in section 63G-7-605.

Utah Code Ann. §63B-7-605

(1) As used in this section: (a) “Adjusted consumer price factor” means what the consumer price index would be without the medical care component and the medical services component. (b) “Aggregate limit” means the limit on the aggregate amount of personal injury damages claims from a single occurrence, as provided in section 63G-7-604(1)(d). (c) “Applicable index” means: (i) the consumer price index, for a calculation of the percentage change in the consumer price index; (ii) the adjusted consumer price factor, for a calculation of the percentage change in the adjusted consumer price factor; (iii) the medical care component, for a calculation of the percentage change in the medical care component; or (iv) the medical services component, for a calculation of the percentage change in the medical services component. (d) “Base applicable index” means an applicable index for the year that is three years before the year in which the legislative fiscal analyst calculates new limits under this section. (e)

“Consumer price index” means the annual index reported by the U.S. Bureau of Labor Statistics for consumer prices for all urban consumers, not seasonally adjusted. (f) “Individual limit” means the limit on the amount of a judgment for damages for personal injury, as provided in section 63G-7-604(1)(a). (g) “Latest aggregate limit” means the aggregate limit, as last adjusted by the risk manager under this section. (h) “Latest individual limit” means the individual limit, as last adjusted by the risk manager under this section. (i) “Latest property damage limit” means the property damage limit, as last adjusted by the risk manager under this section. (j) “Medical care component” means the medical care subindex of the consumer price index. (k) “Medical services component” means the medical care services sub-index of the consumer price index. (l) “Percentage change” means the amount of change between the base applicable index and the applicable index for the year before the year in which the legislative fiscal analyst calculates new limits under this section, expressed as a percentage of the base applicable index. (m) “Property damage limit” means the limit on the amount of a judgment for property damage, as provided in section 63G-7-604(1)(c). (n) “Risk manager” means the state risk manager appointed under section 63A-4-101.5.

(2) Each even-numbered year, the legislative fiscal analyst shall, subject to Subsection (3): (a) calculate a new individual limit by adding to the latest individual limit the sum of: (i) 66.5% of the latest individual limit, multiplied by the percentage change in the adjusted consumer price factor; (ii) 16.75% of the latest individual limit, multiplied by the percentage change in the medical care component; and (iii) 16.75% of the latest individual limit, multiplied by the percentage change in the medical services component; (b) calculate a new aggregate limit by adding to the latest aggregate limit the sum of: (i) 66.5% of the latest aggregate limit, multiplied by the percentage change in the adjusted consumer price factor; (ii) 16.75% of the latest aggregate limit, multiplied by the percentage change in the medical care component; and (iii) 16.75% of the latest aggregate limit, multiplied by the percentage change in the medical services component; (c) calculate a new property damage limit by adding to the latest property damage limit the amount of the latest property damage limit multiplied by the percentage change in the consumer price index; (d) round up to the nearest $100 the individual limit, aggregate limit, and property damage limit calculated under Subsections (2)(a), (b), and (c); and (e) no later than May 1, communicate the newly calculated limits under Subsections (2)(a), (b), and (c) to the risk manager.

(3) The newly calculated individual limit, aggregate limit, or property damage limit under Subsection (2) may not be less than the amount of the limit before the new calculation under Subsection (2).

(4)(a) Each even-numbered year, the risk manager shall make rules, to become effective no later than July 1 of that year, that establish a new individual limit, aggregate limit, and property damage limit, as calculated under Subsection (2). (b) A newly calculated individual limit, aggregate limit, or property damage limit under this section has prospective effect only from the date the rules establishing the new limit take effect. (c) An individual limit, aggregate limit, or property damage limit, as newly calculated under this section, applies only to a claim for injury or loss that occurs after the effective date of the rules that establish the newly calculated limit.

Utah Code Ann. §63G-10-101 et seq.

Vermont

Vt. Stat. Ann. tit. 12, §5601 et seq.

Vt. Stat. Ann. tit. 12, §5601

(a) The state of Vermont shall be liable for injury to persons or property or loss of life caused by the negligent or wrongful act or omission of an employee of the state while acting within the scope of employment, under the same circumstances, in the same manner, and to the same extent as a private person would be liable to the claimant except that the claimant shall not have the right to levy execution on any property of the state to satisfy any judgment. The superior courts of the state shall have exclusive jurisdiction of any actions brought hereunder.

(b) Effective July 1, 2011, the maximum liability of the state under this section shall be $500,000 to any one person and the maximum aggregate liability shall be $2 million to all persons arising out of each occurrence.

Vt. Stat. Ann. tit. 12, §5606

(a) In any action defended by the attorney general or the attorney general's designee in which a judgment is rendered against an employee of the state for acts or omissions within the scope of his or her employment, or a settlement requires payment by such a person, and the right of action is based upon Title 42, U.S.C. section 1983, or under a similar federal statute where state law is incapable of establishing employee immunity, the state shall indemnify the employee for the amount of the employee's liability.

(b) The maximum liability of the state under this section shall be $500,000 to any one person and the maximum aggregate liability shall be $2 million to all persons arising out of each occurrence.

Virginia

Va. Code §8.01-195.1 et seq.

Va. Code §8.01-195.3

Subject to the provisions of this article, the commonwealth shall be liable for claims for money only accruing on or after July 1, 1982, and any transportation district shall be liable for claims for money only accruing on or after July 1, 1986, on account of damage to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee while acting within the scope of his employment under circumstances where the commonwealth or transportation district, if a private person, would be liable to the claimant for such damage, loss, injury or death. However, except to the extent that a transportation district contracts to do so pursuant to section 15.2-4518, neither the commonwealth nor any transportation district shall be liable for interest prior to judgment or for punitive damages. The amount recoverable by any claimant shall not exceed (i) $25,000 for causes of action accruing prior to July 1, 1988, $75,000 for causes of action accruing on or after July 1, 1988, or $100,000 for causes of action accruing on or after July 1, 1993, or (ii) the maximum limits of any liability policy maintained to insure against such negligence or other tort, if such policy is in force at the time of the act or omission complained of, whichever is greater, exclusive of interest and costs.

Virgin Islands

V.I. Code tit. 33, §3401 et seq.

V.I. Code tit. 33, §3411
(c) No judgment shall be awarded against the government of the U.S. Virgin Islands in excess of $25,000.

Washington

Wash. Rev. Code §4.92.005 et seq.

Wash. Rev. Code §4.92.090
The state of Washington, whether acting in its governmental or proprietary capacity, shall be liable for damages arising out of its tortious conduct to the same extent as if it were a private person or corporation.

West Virginia

W. Va. Code §14-2-1 et seq.

W. Va. Code §55-17-1 et seq.

Wisconsin

Wis. Stat. §775.01 et seq.

Wyoming

Wyo. Stat. §1-39-101 et seq.

Wyo. Stat. §1-39-118
(a) Except as provided in subsection (b) of this section, in any action under this act, the liability of the governmental entity, including a public employee while acting within the scope of his duties, shall not exceed: (i) The sum of $250,000 to any claimant for any number of claims arising out of a single transaction or occurrence; or (ii) The sum of $500,000 for all claims of all claimants arising out of a single transaction or occurrence.

(b) A governmental entity is authorized to purchase liability insurance coverage covering any acts or risks including all or any portion of the risks provided under this act. Purchase of liability insurance coverage shall extend the governmental entity's liability as follows: (i) If a governmental entity has insurance coverage either exceeding the limits of liability as stated in this section or covering liability which is not authorized by this act, the governmental entity's liability is extended to the coverage; (ii) Notwithstanding paragraph (i) of this subsection, if a governmental entity acquires coverage in an amount greater than the limits specified in this section for the purpose of protecting itself against potential losses under a federal law and if the purpose of the coverage is stated as a part of or by an amendment to the insurance policy, the increased limits shall be applicable only to claims brought under the federal law.

(d) No judgment against a governmental entity shall include an award for exemplary or punitive damages, for interest prior to judgments or for attorney's fees.

(f) The liability imposed by W.S. 1-39-105 through 1-39-112 may include liability for property damage in an amount less than $500 in cases in which no personal injury or death resulted, but only under the following conditions: (i) A property damage claim may be paid at the discretion of the governmental entity: (A) In the case of the state, the director of the department of administration and information or an employee designated in writing by the director shall decide whether the claim will be paid; (B) In the case of a local governmental entity, the local governmental entity shall appoint an official who shall decide whether the claim will be paid. (ii) The decision of whether the property damage claim will be paid shall be based on finding that: (A) The act was performed by an employee of the state or the local governmental entity; (B) The act occurred while the employee was acting within the scope of his employment duties; (C) The employee acted negligently by breaching a duty or by failing to act like a reasonable person; and (D) The negligent act proximately caused the property damage at issue. (iii) Property damage claims against the state shall be paid from the self-insurance account created by W.S. 1-41-103 except that claims against the department of transportation may be paid from nonrestricted highway funds. Property damage claims against a local governmental entity shall be paid only to the extent the local governing body has appropriated monies for that purpose. There is no obligation on the state legislature or the local governing body to make any appropriation for payment of property damage claims; (iv) If the director of the department of administration and information or the local government official determines there may be insufficient monies to pay all of the claims made during the year, then the director or official may delay paying the claims until close of the year at which time available monies shall be prorated among those entitled to payment at an amount less than 100 percent; (v) The decisions of the director of the department of administration and information or of the local government official are final and are not subject to administrative or judicial review.

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iv *Evangelical United Brethren Church v. State*, 67 Wn.2d 246, 407 P.2d 445 (1965).

v *J&B Development Co. v. King County*, 100 Wn.2d 299, 669 P.2d 468 (1983).

vi See Article 11, Section 17, Washington State Constitution.

vii *Pierson v. Ray*, 386 U.S. 547, 553-54 (1967).

viii *Imbler v. Pachtman*, 424 U.S. 409 (1976).

ix W. Page Keeton, et al. Prosser and Keeton on the Law of Torts, §131, (5th ed. 1984).

x See Richard Cosway, Comment, *Abolition of Sovereign Immunity in Washington*, 36 WASH. L. REV. 312 (1961).

xi See Hagerman v. Seattle, 189 Wash. 694, 697, 66 P.2d 1152, 1154 (1937).

xii Mckenna, Rob, & Tardif, Michael. *Washington State's 45-Year Experiment in Governmental Liability*, 29:1 Seattle University Law Review, 6 (2005).

xiii *Bogess v. King County*, 150 Wash. 578, 274 P. 188 (1929)(highway repair).

xiv *Berglund v. County of Spokane*, 4 Wash. 2d 309, 103 P.2d 333 (1940), held that the county could be liable to an injured pedestrian not for lack of repair on an old bridge, but for failure to fund capital improvements (adding sidewalks). McLeod v. Grant County Sch. Dist., 42 Wash. 2d 316, 255 P.2d 360 (1953), held that a school district could be liable for the rape of a student based largely on a theory that the school was negligent for having an empty unlocked room which could be a site for a crime. A survey of 1953 case laws approved McLeod's determination that the school district had no immunity, but stated that the 5-4 decision on the issues of duty, causation, and foreseeability "may be open to criticism on the basis of tort principles" and "[t]hat a school district may be held liable for rape of a student is admittedly startling." S*urvey of 1963 Washington Case Law, Municipal Corporations, Tort Liability*, 29 WASH. L. REV. 137, 138-139 (1954).

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xvii Mckenna, Rob, & Tardif, Michael. *Washington State's 45-Year Experiment in Governmental Liability*, 29:1 Seattle University Law Review, 34 (2005).

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xxi *J&B Development Co. v. King County*, 100 Wn.2d 299, 669 P.2d 468 (1983) — special relationship exception to public duty doctrine.

xxii *Norg v. City of Seattle*, 200 Wn.2d 749 (2023).

xxiii Mckenna, Rob, & Tardif, Michael. *Washington State's 45-Year Experiment in Governmental Liability*, 29:1 Seattle University Law Review, 33-34 (2005).

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xxvii *Sofie v. Fibreboard Corp*., 112 Wn.2d 636, 771 P.2d 711 (1989) – RCW 4.56.250 violates the state constitutional right to trial by jury.

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xxx Id. at 45.

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xxxiii See RCW 6.15.020-.040.

xxxiv See RCW 6.27.150.

xxxv Laws of 1986, chapter 305, § 100.

xxxvi See RCW 4.22.070(1)(a).

xxxvii See RCW 4.22.070(1)(b).

xxxviii See RCW 4.22.070(3).

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