

HOUSE BILL NO. 714

INTRODUCED BY SPAETH, RAMIREZ

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

IN THE HOUSE

February 7, 1985	Introduced and referred to Committee on Judiciary.
February 25, 1985	On motion, taken from Committee on Judiciary and referred to second reading. Bill printed and placed on members' desks.
February 27, 1985	Second reading, do pass as amended. On motion, rules suspended and bill placed on third reading this day. Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 5, 1985	Introduced and referred to Committee on Judiciary.
March 23, 1985	Committee recommend bill be concurred in. Report adopted.
March 27, 1985	Second reading, concurred in.
March 29, 1985	Third reading, concurred in. Ayes, 42; Noes, 7. Returned to House.

IN THE HOUSE

March 29, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

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 2 INTRODUCED BY Arnold Rammer
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE
 6 DEFINITION OF "CLAIM" UNDER MONTANA'S TORT CLAIMS LAW;
 7 AMENDING SECTIONS 2-9-101 AND 2-9-107, MCA; PROVIDING
 8 RETROACTIVE APPLICABILITY; AND PROVIDING AN IMMEDIATE
 9 EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 2-9-101, MCA, is amended to read:
 13 "2-9-101. Definitions. As used in parts 1 through 3 of
 14 this chapter, the following definitions apply:

15 (1) "Claim" means any claim against a governmental
 16 entity, for money damages only, which any person is legally
 17 entitled to recover as damages because of personal injury or
 18 property damage caused by a negligent or wrongful act or
 19 omission committed by any employee of the governmental
 20 entity while acting within the scope of his employment,
 21 under circumstances where the governmental entity, if a
 22 private person, would be liable to the claimant for such
 23 damages under the laws of the state. For purposes of this
 24 section and the limit of liability contained in 2-9-107, all
 25 claims which arise or derive from personal injury to or

1 death of a single person, or damage to property of a person,
 2 regardless of the number of persons or entities claiming
 3 damages thereby, are considered one claim.

4 (2) "Employee" means an officer, employee, or servant
 5 of a governmental entity, including elected or appointed
 6 officials, and persons acting on behalf of the governmental
 7 entity in any official capacity temporarily or permanently
 8 in the service of the governmental entity whether with or
 9 without compensation, but the term employee shall not mean a
 10 person or other legal entity while acting in the capacity of
 11 an independent contractor under contract to the governmental
 12 entity to which parts 1 through 3 apply in the event of a
 13 claim.

14 (3) "Governmental entity" means and includes the state
 15 and political subdivisions as herein defined.

16 (4) "Personal injury" means any injury resulting from
 17 libel, slander, malicious prosecution, or false arrest, any
 18 bodily injury, sickness, disease, or death sustained by any
 19 person and caused by an occurrence for which the state may
 20 be held liable.

21 (5) "Political subdivision" means any county, city,
 22 municipal corporation, school district, special improvement
 23 or taxing district, or any other political subdivision or
 24 public corporation.

25 (6) "Property damage" means injury or destruction to

1 tangible property, including loss of use thereof, caused by
2 an occurrence for which the state may be held liable.

3 (7) "State" means the state of Montana or any office,
4 department, agency, authority, commission, board,
5 institution, hospital, college, university, or other
6 instrumentality thereof."

7 Section 2. Section 2-9-107, MCA, is amended to read:

8 "2-9-107. Limitation on governmental liability for
9 damages in tort. (1) Neither the state, a county,
10 municipality, taxing district, nor any other political
11 subdivision of the state is liable in tort action for
12 damages suffered as a result of an act or omission of an
13 officer, agent, or employee of that entity in excess of
14 \$300,000 for each ~~claimant~~ claim and \$1 million for each
15 occurrence.

16 (2) No insurer is liable for excess damages unless
17 such insurer specifically agrees by written endorsement to
18 provide coverage to the governmental agency involved in
19 amounts in excess of a limitation stated in this section, in
20 which case the insurer may not claim the benefits of the
21 limitation specifically waived."

22 NEW SECTION. Section 3. Applicability. This act
23 applies retroactively, within the meaning of 1-2-109, to all
24 claims, lawsuits, and causes of action arising after July 1,
25 1977, which have not been reduced to final judgment.

1 NEW SECTION. Section 4. Severability. If a part of
2 this act is invalid, all valid parts that are severable from
3 the invalid part remain in effect. If a part of this act is
4 invalid in one or more of its applications, the part remains
5 in effect in all valid applications that are severable from
6 the invalid applications.

7 NEW SECTION. Section 5. Effective date. This act is
8 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

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22 ~~NEW-SECTION--Section-3--Applicability,-----This---act~~
23 ~~applies-retroactively, within-the-meaning-of-1-2-1997-to-all~~
24 ~~claims, lawsuits, and-causes-of-action-arising-after-July-17~~
25 ~~1977-which-have-not-been-reduced-to-final-judgment.~~

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