

SENATE BILL NO. 22

INTRODUCED BY BLAYLOCK, RAMIREZ

IN THE SENATE

June 24, 1986	Introduced and referred to Committee on Judiciary.
June 25, 1986	On motion by Chief Sponsor, Representative Ramirez added as sponsor.
June 26, 1986	Committee recommend bill do pass as amended. Report adopted.
	Second reading, do pass as amended.
	Third reading, passed. Ayes, 45; Noes, 5.
	Transmitted to House.

IN THE HOUSE

June 27, 1986	Introduced and referred to Committee on Judiciary.
June 28, 1986	Committee recommend bill be concurrent in as amended. Report adopted.
	Second reading, concurred in as amended.
	Third reading, concurred in. Ayes, 85; Noes, 8.
	Returned to Senate with amendments.

IN THE SENATE

June 28, 1986

Received from House.

Second reading, amendments
concurred in.

Third reading, amendments
concurred in. Ayes, 43;
Noes, 7.

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 22
2 INTRODUCED BY Blaylock
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LIMITS OF
5 RECOVERY IN TORT SUITS AGAINST THE STATE AND LOCAL
6 GOVERNMENTS; AMENDING SECTION 2-9-101, MCA; REPEALING
7 SECTIONS 2-9-106 AND 2-9-107, MCA; PROVIDING FOR RETROACTIVE
8 APPLICABILITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
9

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

11 Section 1. Section 2-9-101, MCA, is amended to read:

12 "2-9-101. Definitions. As used in parts 1 through 3 of
13 this chapter, the following definitions apply:

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

1 of a person, regardless of the number of persons or entities
2 claiming damages thereby, are considered one claim.

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

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

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

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

24 (6) "Property damage" means injury or destruction to
25 tangible property, including loss of use thereof, caused by

an occurrence for which the state may be held liable.

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

NEW SECTION. Section 2. Limitation on governmental liability for damages in tort. (1) Neither the state, a county, municipality, taxing district, nor any other political subdivision of the state is 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 \$300,000 for each claim and \$1 million for each occurrence.

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

NEW SECTION. Section 3. Repealer. Sections 2-9-106 and 2-9-107, MCA, are repealed.

NEW SECTION. Section 4. Codification instruction. Section 2 is intended to be codified as an integral part of Title 2, chapter 9, parts 1 through 3, and the provisions of Title 2, chapter 9, parts 1 through 3, apply to section 2.

NEW SECTION. Section 5. Severability. If a part of

this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 6. Applicability. This act applies retroactively, within the meaning of 1-2-109, to all claims, lawsuits, and causes of action arising after July 1, 1977.

NEW SECTION. Section 7. Two-thirds vote. Since this act imposes limited immunity on governmental entities, Article II, section 18, of the Montana Constitution requires a vote of two-thirds of the members of each house of the legislature to be effective.

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

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB022, as introduced.

Description of Proposed Legislation:

To revise limits of recovery in tort suits against state and local governments to \$500,000 per claim and \$1,500,000 per occurrence.

Assumptions:

1. As of June 1, 1986, the required reserve for current claims is \$47.2 million.
2. Per actuarial findings, the state's Comprehensive General Liability Self-Insurance Fund has a relativity factor of 2.35 for unlimited liability and a 1.25 relativity factor for a \$500,000 limit on liability.

Fiscal Impact:

FY87

	<u>Current Law</u>	<u>Proposed Law</u>
Required Reserve	\$47,200,000	\$25,100,000
Self-Insurance Fund Balance	<u>9,000,000</u>	<u>9,000,000</u>
Current Under-Reserved Amount	\$38,200,000	\$16,100,000

Affect on County or Other Local Revenue or Expenditures:

Actual fiscal impact is not known at this time, but it is assumed that limits on the amounts of recovery in tort suits against local governments would be advantageous to governmental agencies.



BUDGET DIRECTOR

DATE

Office of Budget and Program Planning

6/27/86



PRIMARY SPONSOR

DATE

6/27/86

Fiscal Note for SB022, as introduced.

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 22

INTRODUCED BY BLAYLOCK, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LIMITS OF
RECOVERY IN TORT SUITS AGAINST THE STATE AND LOCAL
GOVERNMENTS; AMENDING SECTION 2-9-101, MCA; REPEALING
SECTIONS 2-9-106 AND 2-9-107, MCA; PROVIDING PER-RETROACTIVE
AN APPLICABILITY DATE; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE AND A TERMINATION DATE."

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

Section 1. Section 2-9-101, MCA, is amended to read:

"2-9-101. Definitions. As used in parts 1 through 3 of
this chapter, the following definitions apply:

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

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

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

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

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

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

(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 NEW SECTION. Section 2. Limitation on governmental
8 liability for damages in tort. (1) Neither the state, a
9 county, municipality, taxing district, nor any other
10 political subdivision of the state is liable in tort action
11 for damages suffered as a result of an act or omission of an
12 officer, agent, or employee of that entity in excess of
13 ~~\$300,000~~ \$500,000 for each claim and ~~\$1~~ \$1.5 million for
14 each occurrence.

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

21 NEW SECTION. Section 3. Repealer. Sections 2-9-106
22 and 2-9-107, MCA, are repealed.

23 NEW SECTION. Section 4. Codification instruction.
24 Section 2 is intended to be codified as an integral part of
25 Title 2, chapter 9, parts 1 through 3, and the provisions of

1 Title 2, chapter 9, parts 1 through 3, apply to section 2.

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

8 NEW SECTION. Section 6. Applicability. This act
9 applies ~~retroactively, within the meaning of 1-2-109,~~ to all
10 claims, lawsuits, and causes of action arising after ~~July 1,~~
11 1977 THE EFFECTIVE DATE OF THIS ACT.

12 NEW SECTION. Section 7. Two-thirds vote. Since this
13 act imposes limited immunity on governmental entities,
14 Article II, section 18, of the Montana Constitution requires
15 a vote of two-thirds of the members of each house of the
16 legislature to be effective.

17 NEW SECTION. Section 8. Effective date -- TERMINATION
18 DATE. This act is effective on passage and approval.
19 SECTIONS 1 AND 2 OF THIS ACT TERMINATE ON JUNE 30, 1987.

-End-

SENATE BILL NO. 22

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

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

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

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

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

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

THIRD READING

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

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16 such insurer specifically agrees by written endorsement to
17 provide coverage to the governmental agency involved in
18 amounts in excess of a limitation stated in this section, in
19 which case the insurer may not claim the benefits of the
20 limitation specifically waived.

21 SECTION 3. SECTION 2-9-101, MCA, IS AMENDED TO READ:

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NEW SECTION. Section 8. Two-thirds vote. Since this act imposes limited immunity on governmental entities, Article II, section 18, of the Montana Constitution requires a vote of two-thirds of the members of each house of the legislature to be effective.

NEW SECTION. Section 9. Effective ~~date~~ DATES -- TERMINATION DATE. This act is effective on passage and approval, EXCEPT THAT SECTION 3 IS EFFECTIVE JULY 1, 1987. SECTIONS 1 AND 2 OF THIS ACT TERMINATE ON JUNE 30, 1987.

-End-

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REFERENCE BILL
SB 22

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2 an occurrence for which the state may be held liable.

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11 for damages suffered as a result of an act or omission of an
12 officer, agent, or employee of that entity in excess of
13 ~~\$300,000~~ ~~\$500,000~~ ~~\$1-MILLION~~ \$750,000 for each claim and \$1
14 ~~\$1.5~~ ~~\$2~~ \$1.5 million for each occurrence.

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in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 7. Applicability. This act, EXCEPT SECTION 3, applies retroactively, ~~within the meaning of 1-2-109,~~ to all claims, lawsuits, and causes of action arising after ~~July 17, 1977~~ THE EFFECTIVE DATE OF SECTIONS 1, 2, AND 4 THROUGH 9 OF THIS ACT.

NEW SECTION. Section 8. Two-thirds vote. Since this act imposes limited immunity on governmental entities, Article II, section 18, of the Montana Constitution requires a vote of two-thirds of the members of each house of the legislature to be effective.

NEW SECTION. Section 9. Effective date DATES -- TERMINATION DATE. This act is effective on passage and approval, EXCEPT THAT SECTION 3 IS EFFECTIVE JULY 1, 1987. SECTIONS 1 AND 2 OF THIS ACT TERMINATE ON JUNE 30, 1987.

-End-

STANDING COMMITTEE REPORT

June 28

19 86

Mr. Speaker: We, the committee on

JUDICIARY

report SB 22

☐ do pass
☐ do not pass

☒ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached


REP. TOM HANNAH

Chairman

REINSTATE PUBLIC LIABILITY LIMITS

BE AMENDED AS FOLLOWS:

- Page 3, line 13.
Strike: "\$500,000"
Insert: "\$1 million"
Strike: "\$1.5"
Insert: "\$2"

39

Jul 1/30

Third reading copy (Blue color)

(OVER)

COMMITTEE OF THE WHOLE AMENDMENT

6/28/86
DATE

2:30 p.m.
TIME

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL 22

reading copy () as follows:
Color

HOUSE JUDICIARY AMENDMENTS OF 6/28/86

1. Instruction 1.
Strike: "\$1 million"
Insert: "\$750,000"
Strike: "\$2"
Insert: "\$1.5"


(ADOPT)

REJECT


REP. SPAETH

(OVER)