

HOUSE BILL NO. 207

INTRODUCED BY ADDY

IN THE HOUSE

JANUARY 14, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 3, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 4, 1987	PRINTING REPORT.
FEBRUARY 5, 1987	SECOND READING, DO PASS.
FEBRUARY 6, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 97; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 10, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 26, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 28, 1987	SECOND READING, CONCURRED IN.
MARCH 30, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 7, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 8, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 HB BILL NO. 207
2 INTRODUCED BY Ally

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT
5 DISPOSITION BY THE DEPARTMENT OF ADMINISTRATION OF TORT
6 CLAIMS AGAINST THE STATE IS A PREREQUISITE TO FILING AN
7 ACTION AGAINST THE STATE IN DISTRICT COURT; AMENDING SECTION
8 2-9-301, MCA; AND PROVIDING AN APPLICABILITY DATE."
9

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

11 Section 1. Section 2-9-301, MCA, is amended to read:

12 "2-9-301. Filing of claims against state and political
13 subdivisions -- disposition by state agency as prerequisite.

14 (1) All claims against the state arising under the
15 provisions of parts 1 through 3 of this chapter ~~shall~~ must
16 be presented in writing to ~~and filed with~~ the department of
17 administration.

18 (2) A complaint based on a claim subject to the
19 provisions of subsection (1) may not be filed in district
20 court unless the claimant has first presented the claim to
21 the department of administration and the department has
22 finally denied the claim. The department's denial of a
23 claim must be in writing and must be sent by certified mail.
24 The failure of the department to make final disposition of a
25 claim within 60 days after it is presented to the department

1 must, at the option of the claimant at any time thereafter,
2 be considered a final denial of the claim for purposes of
3 this subsection. The provisions of this subsection do not
4 apply to claims that may be asserted under Title 25, chapter
5 20, by third-party complaint, cross-claim, or counterclaim.

6 (2)(3) All claims against a political subdivision
7 arising under the provisions of parts 1 through 3 shall be
8 presented to and filed with the clerk or secretary of the
9 political subdivision."

10 NEW SECTION. Section 2. Extension of authority. Any
11 existing authority of the department of administration to
12 make rules on the subject of the provisions of this act is
13 extended to the provisions of this act.

14 NEW SECTION. Section 3. Applicability. This act
15 applies to causes of action filed in district court after
16 the effective date of this act.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

1 HOUSE BILL NO. 207
2 INTRODUCED BY ADDY
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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT
5 DISPOSITION BY THE DEPARTMENT OF ADMINISTRATION OF TORT
6 CLAIMS AGAINST THE STATE IS A PREREQUISITE TO FILING AN
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16 be presented in writing to and filed with the department of
17 administration.

18 {2} A complaint based on a claim subject to the
19 provisions of subsection (1) may not be filed in district
20 court unless the claimant has first presented the claim to
21 the department of administration and the department has
22 finally denied the claim. The department's denial of a
23 claim must be in writing and must be sent by certified mail.
24 The failure of the department to make final disposition of a
25 claim within 60 days after it is presented to the department

1 ~~must, at the option of the claimant at any time thereafter,~~
2 ~~be considered a final denial of the claim for purposes of~~
3 ~~this subsection~~ DEPARTMENT MUST GRANT OR DENY THE CLAIM IN
4 WRITING SENT BY CERTIFIED MAIL WITHIN 60 DAYS AFTER THE
5 CLAIM IS PRESENTED TO THE DEPARTMENT. UPON THE DEPARTMENT'S
6 RECEIPT OF THE CLAIM, THE STATUTE OF LIMITATIONS ON THE
7 CLAIM IS TOLLED FOR 60 DAYS OR UNTIL THE DEPARTMENT DENIES
8 THE CLAIM, WHICHEVER IS LESS. The provisions of this
9 subsection do not apply to claims that may be asserted under
10 Title 25, chapter 20, by third-party complaint, cross-claim,
11 or counterclaim.

12 {2}{3} All claims against a political subdivision
13 arising under the provisions of parts 1 through 3 shall be
14 presented to and filed with the clerk or secretary of the
15 political subdivision."

16 NEW SECTION. Section 2. Extension of authority. Any
17 existing authority of the department of administration to
18 make rules on the subject of the provisions of this act is
19 extended to the provisions of this act.

20 NEW SECTION. Section 3. Applicability. This act
21 applies to causes of action filed in district court after
22 the effective date of this act.

-End-



HOUSE BILL NO. 207

INTRODUCED BY ADDY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT DISPOSITION BY THE DEPARTMENT OF ADMINISTRATION OF TORT CLAIMS AGAINST THE STATE IS A PREREQUISITE TO FILING AN ACTION AGAINST THE STATE IN DISTRICT COURT; AMENDING SECTION 2-9-301, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 2-9-301, MCA, is amended to read:

"2-9-301. Filing of claims against state and political subdivisions -- disposition by state agency as prerequisite.

(1) All claims against the state arising under the provisions of parts 1 through 3 of this chapter shall must be presented in writing to and filed with the department of administration.

(2) A complaint based on a claim subject to the provisions of subsection (1) may not be filed in district court unless the claimant has first presented the claim to the department of administration and the department has finally denied the claim. The department's denial of a claim must be in writing and must be sent by certified mail. The failure of the department to make final disposition of a claim within 60 days after it is presented to the department

~~must, at the option of the claimant at any time thereafter, be considered a final denial of the claim for purposes of this subsection~~ DEPARTMENT MUST GRANT OR DENY THE CLAIM IN WRITING SENT BY CERTIFIED MAIL WITHIN 60 DAYS AFTER THE CLAIM IS PRESENTED TO THE DEPARTMENT. UPON THE DEPARTMENT'S RECEIPT OF THE CLAIM, THE STATUTE OF LIMITATIONS ON THE CLAIM IS TOLLED FOR 60 DAYS OR UNTIL THE DEPARTMENT DENIES THE CLAIM, WHICHEVER IS LESS. The provisions of this subsection do not apply to claims that may be asserted under Title 25, chapter 20, by third-party complaint, cross-claim, or counterclaim.

{2}(3) All claims against a political subdivision arising under the provisions of parts 1 through 3 shall be presented to and filed with the clerk or secretary of the political subdivision."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of administration to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 3. Applicability. This act applies to causes of action filed in district court after the effective date of this act.

-End-



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INTRODUCED BY ADDY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT DISPOSITION BY THE DEPARTMENT OF ADMINISTRATION OF TORT CLAIMS AGAINST THE STATE IS A PREREQUISITE TO FILING AN ACTION AGAINST THE STATE IN DISTRICT COURT; AMENDING SECTION 2-9-301, MCA; AND PROVIDING AN APPLICABILITY DATE."

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(1) All claims against the state arising under the provisions of parts 1 through 3 of this chapter shall must be presented in writing to and filed with the department of administration.

(2) A complaint based on a claim subject to the provisions of subsection (1) may not be filed in district court unless the claimant has first presented the claim to the department of administration and the department has finally denied the claim. The department's denial of a claim must be in writing and must be sent by certified mail. The failure of the department to make final disposition of a claim within 60 days after it is presented to the department

~~must, at the option of the claimant at any time thereafter, be considered a final denial of the claim for purposes of this subsection~~ DEPARTMENT MUST GRANT OR DENY THE CLAIM IN WRITING SENT BY CERTIFIED MAIL WITHIN 60 120 DAYS AFTER THE CLAIM IS PRESENTED TO THE DEPARTMENT. THE FAILURE OF THE DEPARTMENT TO MAKE FINAL DISPOSITION OF A CLAIM WITHIN 120 DAYS AFTER IT IS PRESENTED TO THE DEPARTMENT MUST BE CONSIDERED A FINAL DENIAL OF THE CLAIM FOR PURPOSES OF THIS SUBSECTION. UPON THE DEPARTMENT'S RECEIPT OF THE CLAIM, THE STATUTE OF LIMITATIONS ON THE CLAIM IS TOLLED FOR 60-DAYS OR UNTIL THE DEPARTMENT DENIES THE CLAIM, WHICHEVER IS LESS 120 DAYS. The provisions of this subsection do not apply to claims that may be asserted under Title 25, chapter 20, by third-party complaint, cross-claim, or counterclaim.

(3) All claims against a political subdivision arising under the provisions of parts 1 through 3 shall be presented to and filed with the clerk or secretary of the political subdivision."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of administration to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 3. Applicability. This act applies to causes of action filed in district court after the effective date of this act.

-End-



STANDING COMMITTEE REPORT

SENATE

March 26

87

19.....

MR. PRESIDENT

We, your committee on.....SENATE JUDICIARY.....

having had under consideration.....HOUSE BILL No. 207

Third reading copy (blue)
color

Disposition of state tort claims by agency prerequisite to court action.
Addy (Pinsoneault)

Respectfully report as follows: That.....HOUSE BILL No. 207

be amended as follows:

1. Page 2, line 4.

Strike: "60"

Insert: "120"

2. Page 2, line 5.

Following: "DEPARTMENT."

Insert: "The failure of the department to make final disposition of a claim within 120 days after it is presented to the department must be considered a final denial of the claim for purposes of this subsection."

3. Page 2, lines 7 and 8.

Following: "FOR" on line 7

Strike: the remainder of line 7 through "LESS" on line 8

Insert: "120 days"

~~XXXXXXXX~~

~~XXXXXXXX~~

AND AS AMENDED
BE CONCURRED IN

Senator Mazurek

Chairman.

3-26-87
H. 15
20