



28 Section 1. Section **63-30d-604** is amended to read:

29 **63-30d-604. Limitation of judgments against governmental entity or employee --**

30 **Process for adjustment of limits.**

31 (1) (a) Except as provided in Subsections (2) and (3), if a judgment for damages for  
32 personal injury against a governmental entity, or an employee whom a governmental entity has  
33 a duty to indemnify, exceeds [~~\$553,500~~] \$1,000,000 for one person in any one occurrence, [~~or~~  
34 ~~\$1,107,000 for two or more persons in any one occurrence;~~] the court shall reduce the judgment  
35 to that amount.

36 (b) A court may not award judgment of more than [~~\$553,500~~] \$1,000,000 for injury or  
37 death to one person regardless of whether or not the function giving rise to the injury is  
38 characterized as governmental.

39 (c) Except as provided in Subsection (2), if a judgment for property damage against a  
40 governmental entity, or an employee whom a governmental entity has a duty to indemnify,  
41 exceeds [~~\$221,400~~] \$1,000,000 in any one occurrence, the court shall reduce the judgment to  
42 that amount, regardless of whether or not the function giving rise to the damage is  
43 characterized as governmental.

44 (d) There is no limit to the aggregate amount of individual awards that may be awarded  
45 in relation to a single occurrence.

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

49 (3) The limitations of judgments established in Subsection (1) shall be adjusted  
50 according to the methodology set forth in Subsection (4).

51 (4) (a) Each year, the risk manager shall:

52 (i) calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5),  
53 Internal Revenue Code;

54 (ii) calculate the increase or decrease in the limitation of judgment amounts established  
55 in this section as a percentage equal to the percentage difference between the consumer price  
56 index for the preceding calendar year and the consumer price index for calendar year [~~2003~~]  
57 2005; and

58 (iii) after making an increase or decrease under Subsection (4)(a)(ii), round up the

59 limitation of judgment amounts established in Subsection (1) to the nearest \$100.

60 (b) Each even-numbered year after [~~2004~~] 2006, the risk manager shall make rules,  
61 which become effective no later than July 1, that establish the new limitation of judgment  
62 amounts.

63 (c) Adjustments made by the risk manager to the limitation of judgment amounts  
64 established by this section have prospective effect only from the date the rules establishing the  
65 new limitation of judgment take effect and those adjusted limitations of judgment apply only to  
66 claims for injuries or losses that occur after the effective date of the rules that establish those  
67 new limitations of judgment.

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**Legislative Review Note**

**as of 9-15-05 9:41 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**State Impact**

Increasing damage limitations against governmental entities and removing the aggregate damage cap would result in increased litigation costs and liability premiums. The Attorney General's Office would require an appropriation of \$122,000 to manage increased litigation. Actuarial estimates are that this bill would cause a 20 percent increase in liability premiums paid by state agencies and institutions, or approximately \$3,000,000 across all funding sources statewide. These premiums would be adjusted by the Division of Risk Management through the rate-setting process and take effect in FY 2008.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$122,000	\$122,000	\$0	\$0
<b>TOTAL</b>	<b>\$122,000</b>	<b>\$122,000</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

Individuals taking action against the state may benefit by higher damage limitations.

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**Office of the Legislative Fiscal Analyst**