

GOVERNMENTAL IMMUNITY AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Gene Davis

This act modifies provisions of the governmental immunity act by increasing damage caps and by modifying distribution of those caps when multiple persons are injured. This act has retrospective operation to August 1, 2000. Portions of this act take effect April 30, 2001 and other portions take effect July 1, 2001.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

63-30-34 (Effective 07/01/01), as last amended by Chapter 157, Laws of Utah 2000

63-30-34 (Superseded 07/01/01), as last amended by Chapter 76, Laws of Utah 1991

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63-30-34 (Effective 07/01/01)** is amended to read:

63-30-34 (Effective 07/01/01). Limitation of judgments against governmental entity or employee -- Insurance coverage exception -- Process for adjustment of limits.

(1) (a) Except as provided in Subsections (2) and (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 \$500,000 [~~for one~~] per person in any one occurrence, [~~or \$1,000,000 for two or more persons in any one occurrence;~~] **\$ OR \$5,000,000 IN ANY ONE OCCURRENCE.** § the court shall reduce the judgment to that amount **\$** .

~~**[for each person that is awarded a judgment over \$500,000.] §**~~

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

(c) Except as provided in Subsection (2), if a judgment for property damage against a governmental entity, or an employee whom a governmental entity has a duty to indemnify, exceeds \$200,000 in any one occurrence, the court shall reduce the judgment to that amount, regardless of



28 whether or not the function giving rise to the damage is characterized as governmental.

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

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

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

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

37 (ii) calculate the increase or decrease in the limitation of judgment amounts established
38 in this section as a percentage equal to the percentage difference between the consumer price index
39 for the preceding calendar year and the consumer price index for calendar year 1999; and

40 (iii) after making an increase or decrease under Subsection (4)(a)(ii), round up the
41 limitation of judgment amounts established in Subsection (1) to the nearest \$100.

42 (b) Each even-numbered year, the risk manager shall make rules, which become effective
43 no later than July 1, that establish the new limitation of judgment amounts.

44 (c) Adjustments made by the risk manager to the limitation of judgment amounts
45 established by this section have prospective effect only from the date the rules establishing the new
46 limitation of judgment take effect and those adjusted limitations of judgment apply only to claims
47 for injuries or losses that occur after the effective date of the rules that establish those new
48 limitations of judgement.

49 Section 2. Section **63-30-34 (Superseded 07/01/01)** is amended to read:

50 **63-30-34 (Superseded 07/01/01). Limitation of judgments against governmental**
51 **entity or employee -- Insurance coverage exception.**

52 (1) (a) Except as provided in Subsection (2), if a judgment for damages for personal injury
53 against a governmental entity, or an employee whom a governmental entity has a duty to
54 indemnify, exceeds [~~\$250,000 for one person~~] \$500,000 per person in any one occurrence, [~~or~~
55 ~~\$500,000 for two or more persons in any one occurrence,~~] **\$ OR \$5,000,000 IN ANY ONE**
56a **OCCURRENCE,** § the court shall reduce the judgment to
56 that amount **\$ [-for each person that is awarded a judgment over \$500,000] §**.

57 (b) A court may not award judgment of more than [~~\$250,000~~] \$500,000 per person for
58 injury or death to one person regardless of whether or not the function giving rise to the injury is

59 characterized as governmental.

60 (c) Except as provided in Subsection (2), if a judgment for property damage against a
61 governmental entity, or an employee whom a governmental entity has a duty to indemnify, exceeds
62 \$100,000 in any one occurrence, the court shall reduce the judgment to that amount, regardless of
63 whether or not the function giving rise to the damage is characterized as governmental.

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

67 Section 3. **Retrospective operation.**

68 The amendments to Section 63-30-34 contained in this act have retrospective operation to
69 August 1, 2000.

70 Section 4. **Effective date.**

71 Section 63-30-34 (Superseded 07/01/01) takes effect April 30, 2001, and Section 63-30-34
72 (Effective 07/01/01) takes effect July 1, 2001.

Legislative Review Note
as of 2-6-01 12:45 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel