

Senator Gregory S. Bell proposes the following substitute bill:

1 **LIMITATION OF JUDGMENTS AGAINST**
2 **GOVERNMENT ENTITIES**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Leonard M. Blackham**

6 **This act modifies the Judicial Code by establishing limits on judgments that may be**
7 **awarded against government entities. This act establishes a mechanism for adjusting the**
8 **amount of those limitations for inflation. This act provides a sunset date.**

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

10 AMENDS:

11 **63-55b-178**, as last amended by Chapter 49, Laws of Utah 2002

12 ENACTS:

13 **78-60-1**, Utah Code Annotated 1953

14 **78-60-2**, Utah Code Annotated 1953

15 **78-60-3**, Utah Code Annotated 1953

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

17 Section 5. Section **63-55b-178** is amended to read:

18 **63-55b-178. Repeal dates, Title 78.**

19 (1) Section 78-9-101 is repealed May 1, 2003.

20 (2) Title 78, Chapter 60, Limitation of Judgments Against Governmental Entities Act,
21 is repealed December 31, 2004.

22 Section 6. Section **78-60-1** is enacted to read:

23 **CHAPTER 60. LIMITATION OF JUDGMENTS AGAINST GOVERNMENTAL**
24 **ENTITIES ACT**

25 **78-60-1. Title.**



26 This chapter is known as the "Limitation of Judgments against Governmental Entities
27 Act."

28 Section 7. Section **78-60-2** is enacted to read:

29 **78-60-2. Definitions.**

30 As used in this chapter:

31 (1) "Governmental entity" means the state and its political subdivisions as defined in
32 this chapter.

33 (2) "Injury" means death, injury to a person, damage to or loss of property, or any other
34 injury that a person may suffer to his person or estate that would be actionable if inflicted by a
35 private person or his agent.

36 (3) "Personal injury" means an injury of any kind other than property damage.

37 (4) "Political subdivision" means each county, city, town, school district, special
38 district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13,
39 Interlocal Cooperation Act, or other governmental subdivision or public corporation.

40 (5) "Property damage" means injury to, or loss of, any right, title, estate, or interest in
41 real or personal property.

42 (6) (a) "State" means the state of Utah, and includes any office, department, agency,
43 authority, commission, board, institution, hospital, college, university, or other instrumentality
44 of the state.

45 (b) "State" does not mean state medical programs and services performed at or through
46 a state-owned university hospital except that "state" does include:

47 (i) care of a patient at a state-owned university hospital who is referred by another
48 hospital or physician because of the high risk nature of the patient's medical condition;

49 (ii) high risk care or procedures available in Utah only at a state-owned university
50 hospital or provided in Utah only by physicians employed at a state-owned university who are
51 acting within the scope of their employment; and

52 (iii) care of patients at a state-owned university hospital who cannot receive
53 appropriate medical care or treatment at another medical facility in Utah.

54 Section 8. Section **78-60-3** is enacted to read:

55 **78-60-3. Limitation of judgments against governmental entity or employee --**

56 **Process for adjustment of limits.**

57 (1) (a) Except as provided in Subsections (2) and (3), if a judgment for damages for
58 personal injury against a governmental entity, or an employee whom a governmental entity has
59 a duty to indemnify, exceeds \$532,500 for one person in any one occurrence, or \$1,065,000 for
60 two or more persons in any one occurrence, the court shall reduce the judgment to that amount.

61 (b) A court may not award judgment of more than \$532,500 for injury or death to one
62 person regardless of whether or not the function which gave rise to the injury is characterized
63 as governmental or proprietary.

64 (c) Except as provided in Subsection (2), if a judgment for property damage against a
65 governmental entity, or an employee whom a governmental entity has a duty to indemnify,
66 exceeds \$213,000 in any one occurrence, the court shall reduce the judgment to that amount,
67 regardless of whether or not the function giving rise to the damage is characterized as
68 governmental or proprietary.

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

72 (3) The limitations of judgments established in Subsection (1) shall be adjusted as set
73 forth in Subsection (4).

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

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

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

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

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

84 (c) Adjustments made by the risk manager to the limitation of judgment amounts
85 established by this section have prospective effect only from the date the rules establishing the
86 new limitation of judgment take effect and those adjustments take effect and those adjusted
87 limitations of judgment apply only to claims for injuries or losses that occur after the effective

88 date of the rules that establish those new limitations of judgment.