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GOVERNMENTAL IMMUNITY LIMITS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: _____

LONG TITLE

General Description:

This bill raises the limitations on judgments awarded under the Governmental Immunity Act of Utah.

Highlighted Provisions:

This bill:

▶ raises the limitation on damages awardable against a governmental entity for persons receiving a judgment for injury or death;

▶ raises the limitation on damages awardable against a governmental entity for property damage and in relation to indemnification of employees;

~~▶ permits unlimited aggregate damages to be awarded in a single event; and~~ ←\$

▶ provides that the limitations on damages should be adjusted after the year 2006 \$→ [-] ;

and

▶ enacts uncodified language directing the legislature to consider the issue of creating a pool or fund to provide additional funds to persons whose judgment for damages has been limited under the Governmental Immunity Act of Utah. ←\$

Monies Appropriated in this Bill:

None

Other Special Clauses:

\$→ [None] This bill provides an effective date. ←\$

Utah Code Sections Affected:

AMENDS:

63-30d-604, as enacted by Chapter 267, Laws of Utah 2004

\$→ Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL ←\$

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



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 ~~§→ [;~~
 33a **not to exceed an aggregate amount of \$10,000,000, for individual awards that may be**
 33b **awarded in relation to a single 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.

67a **§→ Section 2. Direction to refer to interim committee.**

67b **An appropriate legislative interim committee, as designated by the Legislative**
67c **Management Committee, shall consider the issue of creating a catastrophic disaster fund or**
67d **pool for the purpose of providing additional funds to persons whose recovery of damages has**
67e **been capped or limited under the Governmental Immunity Act of Utah. Consideration of the**
67f **issue may include adopting a supplementary pool or fund, establishing procedures, and**
67g **creating a governing body or board to administer the fund.**

67h **Section 2. Effective Date**

67i **This bill takes effect on July 1, 2007. ←§**

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
TOTAL	\$122,000	\$122,000	\$0	\$0

Individual and Business Impact

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

Office of the Legislative Fiscal Analyst