

Senator Howard A. Stephenson proposes the following substitute bill:

GOVERNMENTAL IMMUNITY LIMITS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: Stephen H. Urquhart

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;
- ▶ 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:

This bill takes effect on July 1, 2007.

Utah Code Sections Affected:



26 AMENDS:

27 **63-30d-604**, as enacted by Chapter 267, Laws of Utah 2004

28 **Uncodified Material Affected:**

29 ENACTS UNCODIFIED MATERIAL

30

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

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

33 **63-30d-604. Limitation of judgments against governmental entity or employee --**

34 **Process for adjustment of limits.**

35 (1) (a) Except as provided in Subsections (2) and (3), if a judgment for damages for
36 personal injury against a governmental entity, or an employee whom a governmental entity has
37 a duty to indemnify, exceeds [~~\$553,500~~] \$1,000,000 for one person in any one occurrence, [~~or~~
38 ~~\$1,107,000 for two or more persons in any one occurrence;~~] the court shall reduce the judgment
39 to that amount.

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

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

48 (d) There is a \$10,000,000 limit to the aggregate amount of individual awards that may
49 be awarded in relation to a single occurrence.

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

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

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

56 (i) calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5),

57 Internal Revenue Code;

58 (ii) calculate the increase or decrease in the limitation of judgment amounts established
59 in this section as a percentage equal to the percentage difference between the consumer price
60 index for the preceding calendar year and the consumer price index for calendar year [~~2003~~
61 2005]; and

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

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

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

72 Section 2. **Direction to refer to interim committee.**

73 An appropriate legislative interim committee, as designated by the Legislative
74 Management Committee, shall consider:

75 (1) the issue of creating a catastrophic disaster fund or pool for the purpose of
76 providing additional funds to persons whose recovery of damages has been limited under the
77 Governmental Immunity Act of Utah, which may include adopting a supplementary pool or
78 fund, establishing procedures, and creating a governing body or board to administer the fund;
79 and

80 (2) the issue of whether recovery for pain and suffering or punitive damages should be
81 available under the Governmental Immunity Act of Utah.

82 Section 3. **Effective date.**

83 This bill takes effect on July 1, 2007.