

2nd Sub. H.B. 391

MODIFICATIONS TO GOVERNMENTAL IMMUNITY PROVISIONS

SENATE FLOOR AMENDMENTS

AMENDMENT 1

MARCH 11, 2019 7:36 PM

Senator **Deidre M. Henderson** proposes the following amendments:

1. *Page 1, Line 18:*

18 enforce the policy; and

2. *Page 1, Lines 21 through 22:*

21 circumstances {~~and~~} .

22 {~~provides for an award of attorney fees, under certain circumstances.~~}

3. *Page 2, Line 31:*

31 {~~63G-7-603, as last amended by Laws of Utah 2017, Chapter 152~~}

4. *Page 8, Line 235 through Page 9, Line 251:*

235 {~~Section 3. Section 63G-7-603 is amended to read:~~

236 ~~63G-7-603. Exemplary or punitive damages prohibited -- Governmental entity~~

237 ~~not subject to execution, attachment, or garnishment -- Exception:~~

238 ~~----- (1) (a) A judgment may not be rendered against a governmental entity for exemplary or~~
239 ~~punitive damages.~~

240 ~~----- (b) If a governmental entity would be required to pay the judgment under Section~~
241 ~~63G-7-902 or 63G-7-903, the governmental entity shall pay any judgment or portion of any~~
242 ~~judgment entered against its employee in the employee's personal capacity even if the judgment~~
243 ~~is for or includes exemplary or punitive damages.~~

244 ~~----- (2) (a) Except as provided in Subsection (2)(b), execution, attachment, or garnishment~~
245 ~~may not issue against a governmental entity.~~

246 ~~----- (b) A judgment creditor may garnish a state income tax refund owing to the judgment~~
247 ~~debtor.~~

248 ~~----- (3) In an action to recover for an injury described in Subsection 63G-7-301(3) or (4),~~
249 ~~the court may award a prevailing plaintiff the plaintiff's reasonable attorney fees and costs,~~
250 ~~apportioned to the local education agency or higher education institution, as applicable,~~
251 ~~according to the degree of fault of the local education agency or higher education institution.~~}