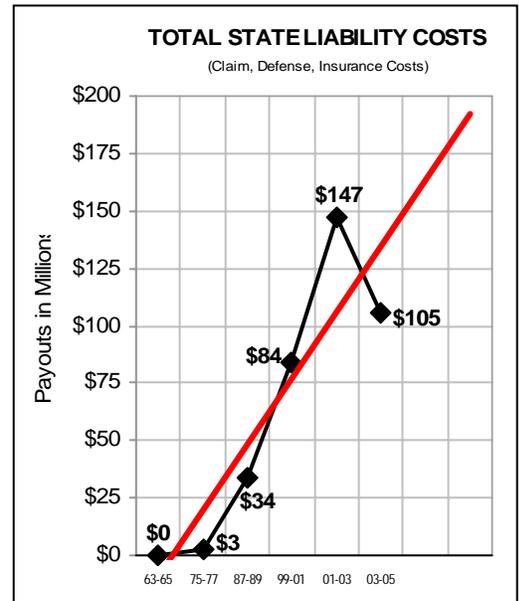




Background: In 1961, Washington legislators waived the state's sovereign immunity against lawsuits to make government liable for operational activities, such as negligently driving a state vehicle, just like private individuals or corporations.

- Washington was just the second state to waive sovereign immunity but the only state to waive it completely.
- Total state liability payouts have grown exponentially since the waiver took effect—from \$241,000 in the 1963-65 biennium to a record \$109 million for 2001-03.
- Much of the liability for governmental functions does not arise from any direct act or wrong by a public employee, but from the inability of government to prevent a third party from committing a crime.
- Even with a lower state payout in 2003-05 and increased risk management efforts, state liability costs, including payouts, defense and insurance costs, now run more than \$100 million per biennium and the overall trend line continues steeply upward.
- According to the Office of Financial Management, Washington taxpayers have paid out roughly \$450 million in state tort settlements and verdicts since 1987—enough to run the DSHS Children's Division for two years.



SB 6215—Defining the liability of public entities for tortious conduct (sponsored by Sen. Kline)

- **Intent and Preamble:** Consistent with the legislature's original intent, government should have liability for functions similar to private activities but not for unique governmental functions, such as regulation, parole, and social welfare.
- **Waiver:** State and local government liability is created only for conduct comparable to private activities for which private persons may be liable, such as vehicle operation, property maintenance and direct negligence of employees.
- **Definitions:** Defines government volunteers and agents who are protected from liability
- **Liability for legislative, judicial, and executive policy:** No liability for legislative or judicial functions or executive decisions involving determination or implementation of policy; decisions requiring exercise of governmental discretion; or implementation of governmental programs when liability results from risks inherent in those programs.
- **Liability for regulatory, police and social welfare activity:** No liability for regulatory activities, failure to enforce laws, or social programs providing financial assistance. Specifically permits liability when government:
 - ✓ Makes express assurances of action on which person reasonably rely
 - ✓ Knows of imminent risk of harm and fails to correct it despite a mandatory statutory duty to do so
- **Liability for former offenders and mental patients:** No liability for crimes and accidents caused by former mental patients or persons under some form of criminal supervision, except
 - ✓ Same as above; and
 - ✓ Injury resulting directly from conduct by a government employee
- **Liability for public facilities:** No liability for facilities that conform with accepted design standards; failure to make capital improvements to facilities; signing if it complies with law; failure to perform maintenance not funded by the legislature; temporary conditions of road resulting from weather.
- **Liability for administrative decisions:** No liability for administrative decisions and actions which are subject to review and correction by administrative or judicial hearings.
- **Judgments against state employees:** Housekeeping change correcting an error in 1989 legislation.
- **Correcting erroneous references to waiver of immunity:** Corrects errors in existing statutes which refer to chapter 4.92 RCW as creating remedies when RCW 4.92 is a waiver of immunity that does not create remedies.
- **Reconciliation with existing statutes:** Existing statutory causes of action against government remain in effect. Existing statutory immunities remain in effect, but responsible liability act also applies if it provides more liability protection.
- **Repealers:** Repeals existing waivers and statutes inconsistent with the legislation.