



## **SELF-INSURANCE LIABILITY PROGRAM**

### *PURPOSE*

The purpose of the Washington State Self Insurance Liability Program (SILP) and the Liability Account is to finance the payment of tort claims arising from negligent actions by state agencies, its officers, employees and volunteers.

### *AUTHORITY*

Revised Code of Washington 4.92.130 through 4.92.270

### *GOAL*

To create an actuarially based, funded self-insurance liability program for state agencies dedicated to payment of tort claims and defense costs, to promote agency accountability, comply with proposed government accounting standards, and help reduce future liability costs.

### *OBJECTIVES*

1. Create a dedicated, non-appropriated account to be used solely for payment of tort liability settlements and judgments and defense costs.
2. Establish a financial method for accurately predicting state liabilities and reducing the budget impact of unforeseen costs, based on sound actuarial principles.
3. Establish a cost-allocation system that recognizes each agency's loss experience, balances accountability with stability and promotes loss control.
4. Use interest earned by the account to reduce the overall cost of financing risk. (This objective was deleted by the 1991 Legislature. Interest income now accrues to the General Fund.)
5. Define the types and amount of risk the state can best afford to fund through the liability account and develop plans to commercially insure the balance.
6. Implement a financial reporting system that properly recognizes and records state tort liabilities and provides for prompt payment of funds.

### *PARTICIPATION*

Coverage is provided to the state of Washington, its agencies, governing bodies, boards and commissions, all as now exist or shall exist, including all state employees, elected and appointed officials, members of boards or commissions, volunteers and reserve officers, all while acting within the scope of their employment.

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Coverage is not provided for the University of Washington in its entirety, employees of the Washington State Ferry System, students at the community colleges, technical colleges, and universities (unless in the capacity of employees or under the guidance and direct supervision of college or university employees), college and university foundations, and foster parents.

New agencies, boards, and commissions are integrated into the fund at the next available budget period, based on actuarial estimates of predicted losses.

#### *COVERAGE*

The Liability Account is used to pay tort claim judgments and settlements and defense costs arising from general liability and vehicle accidents for which the state is found to be wholly or partially negligent.

This includes coverage for claims arising from bodily injury or property damage to third parties, vehicle liability, public officials liability, liquor liability, violations of civil rights, sudden and accidental pollution, certain areas of medical malpractice, and marine docks, quays, shore side facilities, floats, and buoys.

Exposures that do not presently fall within the state's Self-Insurance Program and will not be paid from the Liability Account include: aviation incidents, employee fidelity, property damage to state owned facilities, foreign liability, intercollegiate athletic activities and state employees covered under worker's compensation, student-sponsored events, student medical malpractice during practicum, marine hull and protection and indemnity exposures relative to vessel operations, and marine hull and protection, and indemnity, docks, quays, shore side facilities, floats, buoys relative to Department of Transportation Marine Division.

#### *LIMITS OF PAYMENT*

The Liability Account provides first-dollar coverage for each claim resulting in a judgment or settlement, up to \$10 million dollars per claim (no deductible) and the full cost of defense.

#### *SUBROGATION*

If a payment is made from the Liability Account for which any person or entity other than a state agency is legally responsible, the state will pursue recovery or subrogation of funds from this person or entity.

Funds recovered through subrogation efforts will be deposited in the Liability Account and credited to the agency(ies) involved.



#### *PREMIUM ALLOCATION*

The Liability Account is financed through annual premiums determined by the Department of Enterprise Services, Office of Risk Management (ORM).

ORM determines the formula for allocating costs to participating state agencies, based on an independent actuarial study of the state's projected liabilities.

Premiums are computed for each state agency, board and commission based on the last six years of incurred indemnity and defense costs. A minimum premium of \$1,000 per fiscal year is charged. A periodic actuarial review is conducted to ensure that future premiums reflect changes in total state liability and current payout history.

Premiums paid into the Liability Account by agencies, boards or commissions whose existence is terminated remain in the account to pay future losses.

#### *PREMIUM BILLINGS*

Each participating state agency, board and commission is billed by ORM at the start of each fiscal year for its premium contribution to the Liability Account.

*DEFINITIONS*

**“Liability account”** means a non-appropriated account which is in the custody of the State Treasurer and is used exclusively for paying tort judgments and settlements and defense costs.

**“Tort liability”** is a legally enforceable obligation arising from negligence on behalf of the state. This includes personal injury and property damage to state employees and third parties, excluding workers compensation.

**“Actuarially based”** is the estimated amount of funds to be set aside to meet future obligations based on past losses, current reserves (value of outstanding claims) and predicted trends, as certified by an actuary.

**“Incident”** is an event or accident which gives rise to a potential tort claim. The date the incident occurs determines the fiscal time period for recording the state’s potential liability.

**“Premium”** is the amount of money to be allocated to an agency to be paid into the Liability Account for payment of tort claims and defense costs. Premiums are established on an annual basis.

**“Experience”** is a measurement of an agency’s potential for incurring future losses based on historical tort claim payouts, both in frequency (number of claims) and severity (amount per claim).

**“Outstanding liability”** is the total estimated value of claims and suits for incidents which have already occurred but are not yet paid.

**“Incurred liability”** is the estimated total value of all current and future payments on a claim based on the date the incident occurs. Funds are reserved (set aside) to meet these future payments at the beginning of each fiscal year.

**“Generally accepted accounting principles”** set forth the standards for financial reporting of state government operations. Regulations by the Government Accounting Standards Board (GASB) call for public entities with enterprise funds to “book” liabilities when the liability is first recognized and can reasonably be estimated.

**SELF-INSURANCE LIABILITY PROGRAM  
SUMMARY OF COVERAGE**

The Liability Account is used to pay tort claim judgments and settlements and cost of defense arising from general liability and vehicle accidents for which the state is found to be wholly or partially negligent. Coverage is provided up to \$10 million for each claim with no deductible.

Coverage is provided for claims arising from bodily injury, personal injury, and property damage to a third party, including:

- bodily injury or property damage to a state employee or a third party
- vehicle liability
- public officials liability
- liquor liability
- violations of civil rights
- sudden and accidental pollution
- certain areas of medical malpractice
- marine docks, quays, shore side facilities, floats, and buoys, vessels that are a maximum of 26 feet in length and which are human-powered or a maximum of 50 horsepower motors

***EXCLUSIONS***

Excludes and will not pay claims arising from the following, including self-insurance retentions and deductibles:

- marine hull and protection and indemnity exposures relative to vessels that are greater than a 26 feet in length and 50 horsepower motors
- marine hull & protection and indemnity, docks, quays, shoreside facilities, floats, and buoys relative to the Department of Transportation Marine division
- aircraft and aviation hull and liability exposures
- employee fidelity
- damage to state-owned facilities and property
- foreign liability
- intercollegiate athletic activities
- student sponsored events
- injuries to employees under worker's compensation, US Longshore & Harborworker's or Jones Act
- student medical malpractice during required practicums under outside hospital supervision
- University of Washington and UW Medical School

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Important Links:

Certificates of Insurance:

<http://des.wa.gov/services/risk-management/insurance-state-agencies/state-agency-self-insurance-liability-program/self-insurance-form-certificate-liability-insurance>

Risk Management Sharepoint site:

<http://sp.des.wa.gov/desnet/cl/rfi/SitePages/Home.aspx>