

IN THE SENATE

SENATE BILL NO. 1380

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO TORT CLAIMS AGAINST GOVERNMENTAL ENTITIES; AMENDING SECTION
2 6-904, IDAHO CODE, TO PROVIDE AN EXCEPTION TO GOVERNMENTAL LIABILITY
3 IN CERTAIN INSTANCES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING
4 SECTION 6-904A, IDAHO CODE, TO PROVIDE AN EXCEPTION TO GOVERNMENTAL
5 LIABILITY IN CERTAIN INSTANCES AND TO MAKE TECHNICAL CORRECTIONS.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 6-904, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 6-904. EXCEPTIONS TO GOVERNMENTAL LIABILITY. A governmental entity
11 and its employees while acting within the course and scope of their employ-
12 ment and without malice or criminal intent shall not be liable for any claim
13 ~~which~~ that:

14 1. Arises out of any act or omission of an employee of the governmental
15 entity exercising ordinary care, in reliance upon or the execution or per-
16 formance of a statutory or regulatory function, whether or not the statute or
17 regulation be valid, or based upon the exercise or performance or the fail-
18 ure to exercise or perform a discretionary function or duty on the part of a
19 governmental entity or employee thereof, whether or not the discretion be
20 abused. The provisions of this subsection shall apply to a defending at-
21 torney as defined in section 19-851(2), Idaho Code, and an indigent defense
22 provider as defined in section 19-851(5), Idaho Code.

23 2. Arises out of the imposition or establishment of a quarantine by a
24 governmental entity, whether such quarantine relates to persons or prop-
25 erty.

26 3. Arises out of assault, battery, false imprisonment, false arrest,
27 malicious prosecution, abuse of process, libel, slander, misrepresenta-
28 tion, deceit, or interference with contract rights.

29 4. Arises out of the activities of the Idaho national guard when engaged
30 in training or duty under sections 316, 502, 503, 504, 505 or 709, title 32,
31 United States Code.

32 5. Arises out of the activities of the Idaho national guard when engaged
33 in combatant activities during a time of war.

34 6. Arises out of or results from riots, unlawful assemblies, public
35 demonstrations, mob violence or civil disturbances.

36 7. Arises out of a plan or design for construction or improvement to the
37 highways, roads, streets, bridges, or other public property where such plan
38 or design is prepared in substantial conformance with engineering or design
39 standards in effect at the time of preparation of the plan or design or ap-
40 proved in advance of the construction by the legislative body of the gov-
41 ernmental entity or by some other body or administrative agency, exercising
42 discretion by authority to give such approval.

1 SECTION 2. That Section 6-904A, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 6-904A. EXCEPTIONS TO GOVERNMENTAL LIABILITY. A governmental entity
4 and its employees while acting within the course and scope of their employ-
5 ment and without malice or criminal intent and without reckless, willful and
6 wanton conduct as defined in section 6-904C, Idaho Code, shall not be liable
7 for any claim ~~which~~ that:

8 1. Arises out of the assessment or collection of any tax or fee.

9 2. Arises out of injury to a person or property by a person under super-
10 vision, custody or care of a governmental entity or by or to a person who is on
11 probation, or parole, or who is being supervised as part of a court-imposed
12 drug court program, or any work-release program, or by or to a person receiv-
13 ing services from a mental health center, hospital or similar facility. The
14 provisions of this subsection shall apply to a defending attorney as defined
15 in section 19-851(2), Idaho Code, and an indigent defense provider as de-
16 defined in section 19-851(5), Idaho Code.