

TITLE 6
ACTIONS IN PARTICULAR CASES

CHAPTER 9
TORT CLAIMS AGAINST GOVERNMENTAL ENTITIES

6-901. SHORT TITLE. This act shall be known and may be cited as the "Idaho tort claims act."

[6-901, added 1971, ch. 150, sec. 1, p. 743.]

6-902. DEFINITIONS. As used in this act:

1. "State" means the state of Idaho or any office, department, agency, authority, commission, board, institution, hospital, college, university or other instrumentality thereof.

2. "Political subdivision" means any county, city, municipal corporation, health district, school district, irrigation district, an operating agent of irrigation districts whose board consists of directors of its member districts, special improvement or taxing district, or any other political subdivision or public corporation. As used in this act, the terms "county" and "city" also mean state licensed hospitals and attached nursing homes established by counties pursuant to chapter 36, title 31, Idaho Code, or jointly by cities and counties pursuant to chapter 37, title 31, Idaho Code.

3. "Governmental entity" means and includes the state and political subdivisions as herein defined.

4. "Employee" means an officer, board member, commissioner, executive, employee, or servant of a governmental entity, including elected or appointed officials, and persons acting on behalf of the governmental entity in any official capacity, temporarily or permanently in the service of the governmental entity, whether with or without compensation, but the term employee shall not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the governmental entity to which this act applies in the event of a claim.

5. "Bodily injury" means any bodily injury, sickness, disease or death sustained by any person and caused by an occurrence.

6. "Property damage" means injury or destruction to tangible property caused by an occurrence.

7. "Claim" means any written demand to recover money damages from a governmental entity or its employee which any person is legally entitled to recover under this act as compensation for the negligent or otherwise wrongful act or omission of a governmental entity or its employee when acting within the course or scope of his employment.

[6-902, added 1971, ch. 150, sec. 2, p. 743; am. 1976, ch. 309, sec. 2, p. 1063; am. 1978, ch. 372, sec. 1, p. 977; am. 1982, ch. 132, sec. 1, p. 379; am. 1986, ch. 214, sec. 2, p. 548; am. 1996, ch. 192, sec. 1, p. 601; am. 2005, ch. 260, sec. 1, p. 803.]

6-902A. SUPERVISORY PHYSICIAN. (1) For purposes of this chapter only, a supervisory physician shall be considered an employee.

(2) As used in this section:

(a) "Supervisory duties" means those administrative duties of a physician who supervises personnel affiliated with a licensed ambulance or non-transport service including, but not limited to, disciplining and

educating personnel, setting staffing levels, emergency medical services system design, establishing patient care guidelines and medical policies, compliance, establishing standing orders and protocols, reviewing performance of personnel, quality management and other reasonably necessary administrative duties.

(b) "Supervisory physician" means a physician licensed pursuant to chapter 18, title 54, Idaho Code, who supervises the activities of personnel affiliated with a licensed ambulance or non-transport service as described in section 56-1011, Idaho Code, et seq., when the licensed ambulance or non-transport service is operated under the control of a governmental authority.

(3) The exceptions to liability set forth in sections 6-904, 6-904A and 6-904B, Idaho Code, shall not be applicable to a claim against a supervisory physician for failure to properly perform supervisory duties. The liability limit contained in section 6-926, Idaho Code, shall not be applicable to a claim against a supervisory physician for failure to properly perform supervisory duties to the extent that such supervisory physician is covered by liability insurance exceeding that limit.

(4) Claims against a supervisory physician for failure to properly perform supervisory duties shall not be subject to the requirements of chapter 10, title 6, Idaho Code.

[6-902A, added 2007, ch. 103, sec. 1, p. 308.]

6-903. LIABILITY OF GOVERNMENTAL ENTITIES -- DEFENSE OF EMPLOYEES. (1) Except as otherwise provided in this act, every governmental entity is subject to liability for money damages arising out of its negligent or otherwise wrongful acts or omissions and those of its employees acting within the course and scope of their employment or duties, whether arising out of a governmental or proprietary function, where the governmental entity if a private person or entity would be liable for money damages under the laws of the state of Idaho, provided that the governmental entity is subject to liability only for the pro rata share of the total damages awarded in favor of a claimant which is attributable to the negligent or otherwise wrongful acts or omissions of the governmental entity or its employees. When the claim for damages arises from construction, operation or maintenance of an impoundment, canal, lateral, drain or associated facilities that are under the supervision or control of the operating agency of irrigation districts whose board consists of directors of its member districts, then such board and its member districts shall be considered a single governmental unit and the claim may be brought and pursued only against the operating unit.

(2) (i) A governmental entity shall provide a defense to its employee, including a defense and indemnification against any claims brought against the employee in the employee's individual capacity when the claims are related to the course and scope of employment, and be responsible for the payment of any judgment on any claim or civil lawsuit against an employee for money damages arising out of any act or omission within the course and scope of his employment; provided that the governmental entity and its employee shall be subject to liability only for the pro rata share of the total damages awarded in favor of a claimant which is attributable to the act or omission of the employee; (ii) provided further, that to the extent there is valid and collectible, applicable insurance or any other right to defense or indemnification legally available to and for the protection of an employee, while operating or using an automobile, aircraft or other vehicle not owned

or leased by the governmental entity and while acting within the course and scope of his/her employment or duties, the governmental entity's duty hereunder to indemnify the employee and/or defend any such claim or lawsuit arising out of the operation or use of such personal automobile, aircraft or vehicle, shall be secondary to the obligation of the insurer or indemnitor of such automobile, aircraft or vehicle, whose obligation shall be primary; and (iii) provided further, this subsection shall not be construed to alter or relieve any such indemnitor or insurer of any legal obligation to such employee or to any governmental entity vicariously liable on account of or legally responsible for damages due to the allegedly wrongful error, omissions, conduct, act or deed of such employee.

(3) The defense of its employee by the governmental entity shall be undertaken whether the claim and civil lawsuit is brought in Idaho district court under Idaho law or is brought in a United States court under federal law. The governmental entity may refuse a defense or disavow and refuse to pay any judgment for its employee if it is determined that the act or omission of the employee was not within the course and scope of his employment or included malice or criminal intent.

(4) A governmental entity shall not be entitled to contribution or indemnification or reimbursement for legal fees and expenses from its employee unless a court shall find that the act or omission of the employee was outside the course and scope of his employment or included malice or criminal intent. Any action by a governmental entity against its employee and any action by an employee against the governmental entity for contribution, indemnification or necessary legal fees and expenses shall be tried to the court in the same civil lawsuit brought on the claim against the governmental entity or its employee.

(5) For the purposes of this act and not otherwise, it shall be a rebuttable presumption that any act or omission of an employee within the time and at the place of his employment is within the course and scope of his employment and without malice or criminal intent.

(6) Nothing in this act shall enlarge or otherwise adversely affect the liability of an employee or a governmental entity. Any immunity or other bar to a civil lawsuit under Idaho or federal law shall remain in effect. The fact that a governmental entity may relieve an employee from all necessary legal fees and expenses and any judgment arising from the civil lawsuit shall not under any circumstances be communicated to the trier of fact in the civil lawsuit.

(7) When a claim asserted against an employee in the employee's individual capacity is dismissed by the court, the dismissed party shall have the right to a hearing pursuant to the provisions of section 12-123, Idaho Code.

[6-903, added 1976, ch. 309, sec. 4, p. 1064; am. 1978, ch. 272, sec. 2, p. 630; am. 1980, ch. 218, sec. 1, p. 490; am. 1984, ch. 140, sec. 1, p. 329; am. 2005, ch. 260, sec. 2, p. 804; am. 2011, ch. 197, sec. 1, p. 578.]

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

1. Arises out of any act or omission of an employee of the governmental entity exercising ordinary care, in reliance upon or the execution or performance of a statutory or regulatory function, whether or not the statute or regulation be valid, or based upon the exercise or performance or the fail-

ure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee thereof, whether or not the discretion be abused.

2. Arises out of the imposition or establishment of a quarantine by a governmental entity, whether such quarantine relates to persons or property.

3. Arises out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

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

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

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

7. Arises out of a plan or design for construction or improvement to the highways, roads, streets, bridges, or other public property where such plan or design is prepared in substantial conformance with engineering or design standards in effect at the time of preparation of the plan or design or approved in advance of the construction by the legislative body of the governmental entity or by some other body or administrative agency, exercising discretion by authority to give such approval.

[6-904, added 1971, ch. 150, sec. 4, p. 743; am. 1974, ch. 167, sec. 1, p. 1423; am. 1978, ch. 272, sec. 3, p. 632; am. 1987, ch. 106, sec. 1, p. 218; am. 1987, ch. 361, sec. 4, p. 799; am. 1988, ch. 324, sec. 1, p. 983.]

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

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

2. Arises out of injury to a person or property by a person under supervision, custody or care of a governmental entity or by or to a person who is on probation, or parole, or who is being supervised as part of a court imposed drug court program, or any work-release program, or by or to a person receiving services from a mental health center, hospital or similar facility.

[6-904A, added 1988, ch. 324, sec. 2, p. 984; am. 2004, ch. 227, sec. 1, p. 670.]

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

1. Arises out of the detention of any goods or merchandise by any law enforcement officer.

2. Arises out of the cancellation or rescission, or the failure to cancel or rescind, any motor vehicle registration and license plates for failure of the owner to verify or maintain motor vehicle liability insurance coverage.

3. Arises out of the issuance, denial, suspension or revocation of, or failure or refusal to issue, deny, suspend, or revoke a permit, license, certificate, approval, order or similar authorization.

4. Arises out of the failure to make an inspection, or the making of an inadequate inspection of any property, real or personal, other than the property of the governmental entity performing the inspection.

5. Arises out of any act or omission providing or failing to provide medical care to a prisoner or person in the custody of any city, county or state jail, detention center or correctional facility.

6. Arises out of a decision of the state commission of pardons and parole or its executive director when carrying out the business of the commission.

7. Arises out of a decision, act or omission of a city, county, the Idaho board of correction or Idaho department of correction when carrying out duties and responsibilities as set forth in chapter 8, title 20, Idaho Code.

8. Arises out of the operation of a sport shooting range as defined in section 6-2701, Idaho Code.

[6-904B, added 1988, ch. 324, sec. 3, p. 984; am. 1998, ch. 327, sec. 3, p. 1057; am. 2001, ch. 335, sec. 10, p. 1191; am. 2009, ch. 195, sec. 2, p. 630.]

6-904C. DEFINITIONS. For the purposes of this chapter, and this chapter only, the following words and phrases shall be defined as follows:

1. "Gross negligence" is the doing or failing to do an act which a reasonable person in a similar situation and of similar responsibility would, with a minimum of contemplation, be inescapably drawn to recognize his or her duty to do or not do such act and that failing that duty shows deliberate indifference to the harmful consequences to others.

2. "Reckless, willful and wanton conduct" is present only when a person intentionally and knowingly does or fails to do an act creating unreasonable risk of harm to another, and which involves a high degree of probability that such harm will result.

[6-904C, added 1988, ch. 324, sec. 4, p. 985.]

6-905. FILING CLAIMS AGAINST STATE OR EMPLOYEE -- TIME. All claims against the state arising under the provisions of this act and all claims against an employee of the state for any act or omission of the employee within the course or scope of his employment shall be presented to and filed with the secretary of state within one hundred eighty (180) days from the date the claim arose or reasonably should have been discovered, whichever is later.

[6-905, added 1971, ch. 150, sec. 5, p. 743; am. 1976, ch. 309, sec. 5, p. 1065; am. 1985, ch. 136, sec. 1, p. 373.]

6-906. FILING CLAIMS AGAINST POLITICAL SUBDIVISION OR EMPLOYEE -- TIME. All claims against a political subdivision [subdivision] arising under the provisions of this act and all claims against an employee of a political subdivision for any act or omission of the employee within the course or scope of his employment shall be presented to and filed with the clerk or secretary of the political subdivision within one hundred eighty (180) days from the date the claim arose or reasonably should have been discovered, whichever is later.

[6-906, added 1971, ch. 150, sec. 6, p. 743; am. 1976, ch. 309, sec. 6, p. 1065; am. 1985, ch. 136, sec. 2, p. 373.]

6-906A. TIME FOR FILING CLAIMS BY MINORS. No person who is a minor shall be required to present and file a claim against a governmental entity or its employee under this chapter until one hundred eighty (180) days after said person reaches the age of majority or six (6) years from the date the claim arose or should reasonably have been discovered, whichever is earlier.

[6-906A, added 1985, ch. 77, sec. 1, p. 151; am. 1994, ch. 349, sec. 1, p. 1110.]

6-907. CONTENTS OF CLAIMS -- FILING BY AGENT OR ATTORNEY -- EFFECT OF INACCURACIES. All claims presented to and filed with a governmental entity shall accurately describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six (6) months immediately prior to the time the claim arose. If the claimant is incapacitated from presenting and filing his claim within the time prescribed or if the claimant is a minor or if the claimant is a nonresident of the state and is absent during the time within which his claim is required to be filed, the claim may be presented and filed on behalf of the claimant by any relative, attorney or agent representing the claimant. A claim filed under the provisions of this section shall not be held invalid or insufficient by reason of an inaccuracy in stating the time, place, nature or cause of the claim, or otherwise, unless it is shown that the governmental entity was in fact misled to its injury thereby.

[6-907, added 1971, ch. 150, sec. 7, p. 743.]

6-908. RESTRICTION ON ALLOWANCE OF CLAIMS. No claim or action shall be allowed against a governmental entity or its employee unless the claim has been presented and filed within the time limits prescribed by this act.

[6-908, added 1971, ch. 150, sec. 8, p. 743; am. 1976, ch. 309, sec. 7, p. 1065.]

6-909. TIME FOR ALLOWANCE OR DENIAL OF CLAIMS -- EFFECT OF FAILURE TO ACT. Within ninety (90) days after the filing of the claim against the governmental entity or its employee, the governmental entity shall act thereon and notify the claimant in writing of its approval or denial. A claim shall be deemed to have been denied if at the end of the ninety (90) day period the governmental entity has failed to approve or deny the claim.

[6-909, added 1971, ch. 150, sec. 9, p. 743; am. 1976, ch. 309, sec. 8, p. 1066; am. 1978, ch. 272, sec. 4, p. 633.]

6-910. SUIT ON DENIED CLAIMS PERMITTED. If the claim is denied, a claimant may institute an action in the district court against the governmental entity or its employee in those circumstances where an action is permitted by this act.

[6-910, added 1971, ch. 150, sec. 10, p. 743; am. 1976, ch. 309, sec. 9, p. 1066.]

6-911. LIMITATION OF ACTIONS. Every claim against a governmental entity permitted under the provisions of this act or against an employee of a governmental entity shall be forever barred, unless an action is begun within two (2) years after the date the claim arose or reasonably should have been discovered, whichever is later.

[6-911, added 1971, ch. 150, sec. 11, p. 743; am. 1976, ch. 309, sec. 10, p. 1066; am. 1985, ch. 136, sec. 3, p. 373.]

6-912. COMPROMISE AND SETTLEMENT BY GOVERNING BODY. The governing body of each political subdivision, after conferring with its legal officer or counsel, may compromise and settle any claim allowed by this act, subject to the terms of the insurance, if any.

[6-912, added 1971, ch. 150, sec. 12, p. 743.]

6-913. COMPROMISE AND SETTLEMENT BY BOARD OF EXAMINERS. The board of examiners may compromise and settle any claim allowed by this act, subject to the terms of the insurance, if any.

[6-913, added 1971, ch. 150, sec. 13, p. 743.]

6-914. JURISDICTION -- RULES OF PROCEDURE. The district court shall have jurisdiction over any action brought under this act and such actions shall be governed by the Idaho rules of civil procedure insofar as they are consistent with this act.

[6-914, added 1971, ch. 150, sec. 14, p. 743.]

6-915. VENUE. Actions against the state or its employee shall be brought in the county in which the cause of action arose or in Ada County. In addition, a resident of the state of Idaho may bring an action in the county of his residence.

Actions against a political subdivision or its employee shall be brought in the county in which the cause of action arose or in any county where the political subdivision is located.

[6-915, added 1971, ch. 150, sec. 15, p. 743; am. 1976, ch. 309, sec. 11, p. 1066.]

6-916. SERVICE OF SUMMONS. In all actions under this act against the state or its employee the summons and complaint shall be served on the secretary of state with a copy to the attorney general. This section shall not be construed to release the party making service of process from serving any named defendant other than the governmental entity in compliance with other applicable statutes or rules of civil proceeding.

In all actions under this act against any employee wherein it is alleged that such employee was acting within the course and scope of his employment, a copy of the summons and complaint shall be served upon the governmental entity which is his employer.

[6-916, added 1971, ch. 150, sec. 16, p. 743; am. 1976, ch. 309, sec. 12, p. 1067; am. 1978, ch. 272, sec. 5, p. 633.]

6-917. RECOVERY AGAINST GOVERNMENTAL ENTITY BAR TO ACTION AGAINST EMPLOYEE. Recovery against a governmental entity under the provisions of this act shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee whose negligence or wrongful act or omission gave rise to the claim.

[6-917, added 1971, ch. 150, sec. 17, p. 743.]

6-918. NO PUNITIVE DAMAGES. Governmental entities and their employees shall not be liable for punitive damages on any claim allowed under the provisions of this act.

[6-918, added 1971, ch. 150, sec. 18, p. 743; am. 1976, ch. 309, sec. 13, p. 1067.]

6-918A. ATTORNEYS' FEES. At the time and in the manner provided for fixing costs in civil actions, and at the discretion of the trial court, appropriate and reasonable attorney fees may be awarded to the claimant, the governmental entity or the employee of such governmental entity, as costs, in actions under this act, upon petition therefor and a showing, by clear and convincing evidence, that the party against whom or which such award is sought was guilty of bad faith in the commencement, conduct, maintenance or defense of the action. In no case shall such attorney fee award or any combination or total of such awards, together with other costs and money judgment or judgments for damages exceed, in the aggregate, the limitations on liability fixed by section 6-926, Idaho Code. The right to recover attorney fees in legal actions for money damages that come within the purview of this act shall be governed exclusively by the provisions of this act and not by any other statute or rule of court, except as may be hereafter expressly and specifically provided or authorized by duly enacted statute of the state of Idaho.

[6-918A, added 1978, ch. 272, sec. 6, p. 633.]

6-919. LIABILITY INSURANCE FOR STATE -- COMPREHENSIVE PLAN BY DIVISION OF INSURANCE MANAGEMENT. The administrator of the division of insurance management in the department of administration shall provide a comprehensive liability plan which will cover and protect the state and its employees from claims and civil lawsuits. He shall be responsible for the acquisition and administration of all liability insurance of the state or for the use of the retained risk account provided in section 67-5776, Idaho Code, to meet the obligations of the comprehensive liability plan.

The administrator shall, after consultation with the departments, agencies, commissions, and other instrumentalities of the state, provide a comprehensive liability plan for the state providing liability coverage to the state and its employees in amounts not less than the minimum specified in section 6-924, Idaho Code. He shall have the authority to use the retained risk account provided in section 67-5776, Idaho Code, or to purchase, renew, cancel and modify all policies according to the comprehensive liability plan.

[6-919, added 1971, ch. 150, sec. 19, p. 743; am. 1974, ch. 34, sec. 9, p. 988; am. 1974, ch. 252, sec. 7, p. 1674; am. 1976, ch. 310, sec. 1, p. 1069; am. 1980, ch. 106, sec. 1, p. 231.]

6-920. LIABILITY INSURANCE FOR STATE PROCURED BY DIVISION OF INSURANCE MANAGEMENT. No state agency or institution other than the administrator of the division of insurance management in the department of administration may procure liability insurance under this act. All state agencies and institutions shall comply with this act and the comprehensive liability plan developed by the administrator of the division.

[6-920, added 1971, ch. 150, sec. 20, p. 743; am. 1974, ch. 34, sec. 10, p. 988; am. 1974, ch. 252, sec. 8, p. 1674; am. 1976, ch. 310, sec. 2, p. 1070; am. 1980, ch. 106, sec. 2, p. 232.]

6-921. APPORTIONMENT OF COST OF STATE PLAN. The administrator of the division of insurance management in the department of administration shall apportion the cost of the comprehensive liability plan under this act to the individual agencies and institutions and the costs shall be paid to the departments.

[6-921, added 1971, ch. 150, sec. 21, p. 743; am. 1974, ch. 34, sec. 11, p. 988; am. 1974, ch. 252, sec. 9, p. 1674; am. 1976, ch. 310, sec. 3, p. 1070; am. 1980, ch. 106, sec. 3, p. 232.]

6-922. PAYMENT BY STATE OF CLAIMS OR JUDGMENTS WHEN NO INSURANCE. In the event no insurance has been procured by the state to pay a claim or judgment arising under the provisions of this act, the claim or judgment shall be paid from the next appropriation of the state instrumentality whose tortious conduct gave rise to the claim.

[6-922, added 1971, ch. 150, sec. 22, p. 743.]

6-923. AUTHORITY OF POLITICAL SUBDIVISIONS TO PURCHASE INSURANCE. All political subdivisions of the state shall have the authority to purchase the necessary liability insurance for themselves and their employees.

[6-923, added 1971, ch. 150, sec. 23, p. 743; am. 1976, ch. 310, sec. 4, p. 1070.]

6-924. POLICY LIMITS -- MINIMUM REQUIREMENTS. Every policy or contract of insurance or comprehensive liability plan of a governmental entity as permitted under the provisions of this chapter shall provide that the insurance carrier pay on behalf of the insured governmental entity or its employee to a limit of not less than five hundred thousand dollars (\$500,000) for bodily or personal injury, death, or property damage or loss as the result of any one (1) occurrence or accident, regardless of the number of persons injured or the number of claimants.

[6-924, added 1971, ch. 150, sec. 24, p. 743; am. 1976, ch. 309, sec. 14, p. 1067; am. 1976, ch. 310, sec. 5, p. 1070; am. 1984, ch. 96, sec. 1, p. 221.]

6-925. POLICY TERMS NOT COMPLYING WITH ACT -- CONSTRUCTION -- EXCEPTION. Any insurance policy, rider or indorsement hereafter issued and purchased to insure against any risk which may arise as a result of the application of this act, which contains any condition or provision not in compliance with the requirements of the act, shall not be rendered invalid thereby, but shall be construed and applied in accordance with such conditions and provisions as would have applied had such policy, rider or indorsement been in full compliance with this act, provided the policy is otherwise valid. The section shall not be construed to prohibit any such insurance policy, rider or indorsements from containing standard and customary exclusions of coverages which the insurance commissioner deems to be reasonable and prudent upon considering the availability and the cost of such insurance coverages.

[6-925, added 1971, ch. 150, sec. 25, p. 743.]

6-926. JUDGMENT OR CLAIMS IN EXCESS OF COMPREHENSIVE LIABILITY PLAN -- REDUCTION BY COURT -- LIMITS OF LIABILITY. (1) The combined, aggregate liability of a governmental entity and its employees for damages, costs and attorney's fees under this chapter, on account of bodily or personal injury, death or property damage, or other loss as the result of any one (1) occurrence or accident regardless of the number of persons injured or the number of claimants, shall not exceed and is limited to five hundred thousand dollars (\$500,000), unless the governmental entity has purchased applicable, valid, collectible liability insurance coverage in excess of said limit, in which event the controlling limit shall be the remaining available proceeds of such insurance. For claims arising from construction, operation or maintenance of impoundments, canals, laterals, drains or associated facilities that are under the supervision or control of the operating agency of irrigation districts whose board consists of directors of its member districts, the combined aggregate limit of liability for the operating agency, its member irrigation districts and their respective employees shall be the combined aggregate limit of a single governmental entity under this section. If any judgment or judgments, including costs and attorney's fees that may be awarded, are returned or entered, and in the aggregate total more than five hundred thousand dollars (\$500,000), or the limits provided by said valid, collectible liability insurance, if any, whether in one (1) or more cases, the court shall reduce the amount of the award or awards, verdict or verdicts, or judgment or judgments in any case or cases within its jurisdiction so as to reduce said aggregate loss to said applicable statutory limit or to the limit or limits provided by said valid, collectible insurance, if any, whichever is greater.

(2) Limits of liability specified in this section shall not be increased or altered by the fact that a decedent, on account of whose death a wrongful death claim is asserted hereunder, left surviving him or her more than one (1) person entitled to make claim therefor, nor shall the aggregate recovery exceed the single limit provided for injury or death to any one (1) person in those cases in which there is both an injury claim and a death claim arising out of the injury to one (1) person, the intent of this section being to limit such liabilities and recoveries in the aggregate to one (1) limit only.

(3) The entire exposure of the entity and its employee or employees hereunder shall not be enlarged by the number of liable employees or the theory of concurrent or consecutive torts or tortfeasors or of a sequence of accidents or incidents if the injury or injuries or their consequences stem from one (1) occurrence or accident.

(4) In no case shall any court enter judgment, or allow any judgment to stand, which results in the limit of liability provided in this section to be exceeded in any manner or respect. If any court has jurisdiction of two (2) or more such claims in litigation in which the adjudication is simultaneous and, in the aggregate, exceeds the limits provided in this section, the reduction shall be pro rata in a proportion consistent with the relative amounts of loss of the claimants before the court; otherwise, the reduction shall be determined and made in view of limits remaining after the prior settlement of any other such claims or the prior satisfaction of any other such judgments, and no consideration shall be given to other such outstanding claims, if any, which have not been settled or satisfied prior thereto.

(5) The court shall reduce any judgment in excess of the limits provided by this act in any matter within its jurisdiction, whether by reason of the

adjudication in said proceedings alone or of the total or aggregate of all such awards, judgments, settlements, voluntary payments or other such loss relevant to the limits provided in this section.

[6-926, added 1984, ch. 96, sec. 3, p. 222; am. 2011, ch. 197, sec. 2, p. 579.]

6-927. TAX LEVY TO PAY COMPREHENSIVE LIABILITY PLAN. Notwithstanding any provisions of law to the contrary, all political subdivisions shall have authority to levy an annual property tax in the amount necessary to provide for a comprehensive liability plan whether by the purchase of insurance or otherwise as herein authorized; provided, that the revenues derived therefrom may not be used for any other purpose.

[6-927, added 1971, ch. 150, sec. 27, p. 743; am. 1976, ch. 310, sec. 7, p. 1071; am. 1980, ch. 136, sec. 1, p. 297; am. 1996, ch. 322, sec. 1, p. 1031.]

6-928. TAX LEVY TO PAY CLAIM OR JUDGMENT. Notwithstanding any provisions of law to the contrary and in the event there are no funds available, the political subdivision shall levy and collect a property tax, at the earliest time possible, in an amount necessary to pay a claim or judgment arising under the provisions of this act where the political subdivision has failed to purchase insurance or otherwise provide a comprehensive liability plan to cover a risk created under the provisions of this act.

[6-928, added 1971, ch. 150, sec. 28, p. 743; am. 1976, ch. 310, sec. 8, p. 1072; am. 1980, ch. 136, sec. 2, p. 297; am. 1996, ch. 322, sec. 2, p. 1031.]

6-929. LIMITATION OF LIABILITY OF VOLUNTEER FIREMEN. For the purposes of chapter 9, title 6, Idaho Code, a volunteer fireman is an employee of a governmental entity. A "volunteer fireman" means any person who contributes his services to a volunteer fire department organized pursuant to chapter 14, title 31, Idaho Code, or a county mutual fire insurance company organized pursuant to chapter 31, title 41, Idaho Code, or a volunteer fire association.

[6-929, added 1989, ch. 254, sec. 1, p. 629.]