

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 997

By: Herbert

AS INTRODUCED

An Act relating to officers; amending 51 O.S. 2001, Sections 154 and 163, which relate to liability and venue; decreasing certain liability; allowing certain suits in specified situations; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 51 O.S. 2001, Section 154, is amended to read as follows:

Section 154. A. The total liability of the state and its political subdivisions on claims within the scope of this act, Section 151 et seq. of this title, arising out of an accident or occurrence happening after the effective date of this act, Section 151 et seq. of this title, shall not exceed:

1. ~~Twenty-five Thousand Dollars (\$25,000.00)~~ One Hundred Thousand Dollars (\$100,000.00) for any claim or to any claimant who has more than one claim for loss of property arising out of a single act, accident, or occurrence;

2. Except as otherwise provided in this paragraph, ~~One Hundred Twenty-five Thousand Dollars (\$125,000.00)~~ One Hundred Thousand Dollars (\$100,000.00) to any claimant for his claim for any other loss arising out of a single act, accident, or occurrence. ~~The limit of liability for the state or any city or county with a population of three hundred thousand (300,000) or more according to the latest federal Decennial Census shall not exceed One Hundred Seventy-five Thousand Dollars (\$175,000.00).~~ Except however, the limits of said liability for the University Hospitals and State

Mental Health Hospitals operated by the Department of Mental Health and Substance Abuse Services for claims arising from medical negligence shall be Two Hundred Thousand Dollars (\$200,000.00). For claims arising from medical negligence by any licensed physician, osteopathic physician or certified nurse-midwife rendering prenatal, delivery or infant care services from September 1, 1991, through June 30, 1996, pursuant to a contract authorized by subsection (b) of Section 1-106 of Title 63 of the Oklahoma Statutes and in conformity with the requirements of Section 3 of this act, the limits of said liability shall be Two Hundred Thousand Dollars (\$200,000.00); or

3. One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single occurrence or accident.

B. No award for damages in an action or any claim against the state or a political subdivision shall include punitive or exemplary damages.

C. When the amount awarded to or settled upon multiple claimants exceeds the limitations of this section, any party may apply to the district court which has jurisdiction of the cause to apportion to each claimant his proper share of the total amount as limited herein. The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement made to him bears to the aggregate awards and settlements for all claims against the state or its political subdivisions arising out of the occurrence. When the amount of the aggregate losses presented by a single claimant exceeds the limits of paragraphs 1 or 2 of subsection A of this section, each person suffering a loss shall be entitled to his proportionate share.

D. The total liability of resident physicians and interns while participating in a graduate medical education program of the University of Oklahoma College of Medicine, its affiliated

institutions and the Oklahoma College of Osteopathic Medicine and Surgery shall not exceed One Hundred Thousand Dollars (\$100,000.00).

E. The state or a political subdivision may petition the court that all parties and actions arising out of a single accident or occurrence shall be joined as provided by law, and upon order of the court the proceedings upon good cause shown shall be continued for a reasonable time or until such joinder has been completed. The state or political subdivision shall be allowed to interplead in any action which may impose on it any duty or liability pursuant to this act.

F. The liability of the state or political subdivision under this act shall be several from that of any other person or entity, and the state or political subdivision shall only be liable for that percentage of total damages that corresponds to its percentage of total negligence. Nothing in this section shall be construed as increasing the liability limits imposed on the state or political subdivision under this act.

SECTION 2. AMENDATORY 51 O.S. 2001, Section 163, is amended to read as follows:

Section 163. A. Venue for actions against the state within the scope of this act shall be either the county in which the cause of action arose or Oklahoma County, except that a constitutional state agency, board or commission may, upon resolution filed with the Secretary of State, designate another situs for venue in lieu of Oklahoma County.

B. Actions against all political subdivisions within the scope of this act shall be brought in the county in which the situs of the political subdivision is located or in the county in which the cause of action arose; provided, any action brought against a municipality which is an owner of a dam, based upon the construction, maintenance, or operation of the dam, shall be brought in the county where the dam or a major portion of the dam is located.

C. Suits instituted pursuant to the provisions of this act shall name as defendant the state or the political subdivision against which liability is sought to be established. In no instance shall an employee of the state or political subdivision acting within the scope of his employment be named as defendant with the exception that suits based on the conduct of resident physicians and interns shall be made against the individual consistent with the provisions of Title 12 of the Oklahoma Statutes. Provided, any duly elected official in a state, county, city or school board office, while in the performance of the elected official's duties, may be sued with his or her written permission.

D. All actions against the state or political subdivision shall be filed in the name of the real party or parties in interest, and in no event shall any claim be presented nor recovery be made under the right of subrogation.

E. In all actions against the state, service shall be perfected by mailing, by certified mail, return receipt requested, a summons and a copy of the petition to the Attorney General. Claimant shall also mail, by certified mail, return receipt requested, a copy of the summons and a copy of the petition to the administrative head of the state agency or agencies involved and a copy of the summons and a copy of the petition to the Risk Management Administrator of the Purchasing Division of the Office of Public Affairs.

F. In suits against political subdivisions the petition and summons shall be served in the manner prescribed by law for civil cases generally. If no method is prescribed by law, then service may be had on the administrative head of the political subdivision being sued, if available, and if not, the court in which the suit is pending may authorize service in such manner as may be calculated to afford the political subdivision a fair opportunity to answer and defend the suit.

G. No attempt shall be made in the trial of any action brought against the state or any political subdivision or employee within the scope of this act to suggest the existence of any insurance which covers in whole or in part any judgment or award which may be rendered in favor of the plaintiff.

SECTION 3. This act shall become effective November 1, 2002.

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