
IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

KEVIN J. LOCKE and TORI LOCKE,

Plaintiffs/Respondents,

vs.

THE CITY OF SEATTLE,

Defendant/Petitioner.

MARGARET A. LINDELL, Personal Representative for the Estate of
GARY R. LINDELL, deceased,

Plaintiff/Respondent,

v,

THE CITY OF SEATTLE,

Defendant/Petitioner.

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SUPREME COURT
STATE OF WASHINGTON
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BRIEF OF AMICUS CURIAE
WASHINGTON STATE TRIAL LAWYERS ASSOCIATION
FOUNDATION

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I. IDENTITY AND INTEREST OF AMICUS CURIAE

The Washington State Trial Lawyers Association Foundation (WSTLA Foundation) is a not-for-profit corporation organized under the laws of Washington, and a supporting organization of the Washington State Trial Lawyers Association (WSTLA). WSTLA Foundation, which now operates the amicus curiae program formerly operated by WSTLA, has an interest in the rights of injured persons seeking legal redress under the civil justice system.

II. INTRODUCTION AND STATEMENT OF THE CASE

These consolidated appeals involve the Law Enforcement Officers and Fire Fighters Act, Ch. 41.26 RCW (LEOFF), and various challenges, including constitutional challenges, to the right of law enforcement officers and fire fighters (LEOFF members) to sue their municipal employers under RCW 41.26.281. Locke v. City of Seattle is before the Court on a grant of the petition for review filed by the City of Seattle (or City). See Locke v. City of Seattle, 133 Wn.App. 696, 137 P.3d 52 (2006), *review granted*, 158 Wn.2d 1025 (2007). Lindell v. City of Seattle is before the Court on a grant of the City's motion for discretionary review. See Lindell v. City of Seattle (S.C. #79381-6), Order granting discretionary review, January 3, 2007. Lindell is now consolidated with Locke, on review. Id.

The underlying facts need not be set out in detail for purposes of this amicus curiae brief. In each of these cases a civil action is brought

against the City, pursuant to RCW 41.26.281, for negligent conduct occurring during the course of employment. In Locke, the law enforcement officer sues for personal injuries. See Locke Br. at 7-8. In Lindell, the law enforcement officer's estate sues for wrongful death. See (Lindell) City of Seattle Br. at 1. In Locke, the City raises on review, among other issues, the following:

2. Does the [Court of Appeals] panel's holding that compelling governmental employers to fund workers' compensation benefits without the constitutionally mandated quid pro quo of protection from suit does not violate the State or Federal privileges and immunities, equal protection, and/or due process clauses raise significant questions of law under the State or Federal Constitutions, or conflict with this Court's decisions?
3. Does the holding that LEOFF does not violate sovereign immunity despite creating a cause of action against public employers that does not and cannot exist against private employers conflict with this Court's decisions or raise an issue of substantial public interest this Court should determine?

See (Locke) City of Seattle Pet. for Rev. at 1-2.

In Lindell, the Court only granted discretionary review "on the issues of sovereignty and the State Constitution's Privileges and Immunities clause." See Order, January 3, 2007. This amicus curiae brief only addresses the validity of the City's arguments that sovereign immunity and a constitutionally-based *quid pro quo* entitlement render

RCW 41.26.281 unenforceable with respect to civil actions sounding in negligence.¹

III. ISSUES PRESENTED

- 1.) Does RCW 41.26.281 violate the City's right to sovereign immunity?
- 2.) Does the City have a free-standing constitutionally-based entitlement under the *quid pro quo* doctrine to be free of any negligence-based civil liability exposure under LEOFF, thereby rendering RCW 41.26.281 invalid?

IV. SUMMARY OF ARGUMENT

Re: Sovereign Immunity

By enacting RCW 41.26.281 the Washington Legislature, in an exercise of its plenary police power, and pursuant to Washington Constitution, Art. II §26, waived the City of Seattle's sovereign immunity from suit by employees who are members of LEOFF. This enabling statute only requires a cognizable basis for imposing civil liability under Washington statutory or common law. It is not necessary for a LEOFF member to demonstrate, under RCW 4.96.010, that the alleged tortious conduct would give rise to liability if the City was a private person or corporation. The general waiver in RCW 4.96.010 is not exclusive, and the Legislature is free to enact other more specific waivers, such as RCW 41.26.281.

¹ The sovereign immunity issue is before the Court in both appeals. Although the order granting discretionary review in Lindell does not encompass the City of Seattle's *quid pro quo* argument, other than as it may relate to its privileges and immunities claim under Washington Constitution, Art. I §12, it is before the Court in Locke.

Re: Quid Pro Quo

The City has failed to demonstrate that federal or state precedent establishes LEOFF employers have a free-standing constitutional entitlement under a *quid pro quo* analysis to be free from suits by employees based upon negligence. The City is also incorrect in suggesting that the 1911 “great compromise” regarding Washington’s Industrial Insurance Act sets a *quid pro quo* baseline for evaluating the validity of the rights accorded LEOFF members under RCW 41.26.270 and RCW 41.26.281.

V. ARGUMENT

A. By Enacting RCW 41.26.281, The Washington Legislature Waived The City’s Right To Sovereign Immunity With Respect To Actions Against It By LEOFF Members.

1. Background regarding doctrine of sovereign immunity.

The doctrine of sovereign immunity is rooted in English common law, and was recognized by the United States and individual states from the time these entities were formed. See Restatement (Second) of Torts, Ch. 45A, Introductory Cmt. at 393-94 (1979); id. at § 895B Cmt. (a.); Wilson v. Seattle, 122 Wn.2d 814, 818, 863 P.2d 1336 (1993). The doctrine was developed by the courts, as a matter of policy. Restatement (Second) of Torts, Ch. 45A, Introductory Cmt. at 392-93. Sovereign immunity has existed in Washington since statehood. See Haddenham v. State, 87 Wn.2d 145, 149, 550 P.2d 9 (1976); see generally Debra L. Stephens & Bryan P. Harnetiaux, The Value of Government Tort

Liability: Washington State's Journey from Immunity to Accountability, 30 Seattle U. L. Rev. 35, 37-39 (2006). The Washington Constitution, Art. II § 26, presupposes application of the doctrine, empowering the Legislature to alter its effect. This provision states:

The legislature shall direct by law, in what manner, and in what courts, suits may be brought against the state.

The Washington Legislature's exercise of its plenary police power is itself an attribute of sovereignty. See State v. Mountain Timber Co., 75 Wash. 581, 587, 135 P. 645 (1913) (upholding constitutionality of Washington's Industrial Insurance Act), *aff'd*, 243 U.S. 219 (1917).

The exercise of the constitutional power to waive sovereign immunity is not subject to challenge, unless the waiver is flawed because it is otherwise offensive; e.g. violates a separate constitutional provision. See State ex rel. Pierce County v. Sup'r Ct., 86 Wash. 685, 688, 151 P. 108 (1915) (describing Legislature's power under Art. II § 26); Daggs v. Seattle, 110 Wn.2d 49, 52-53, 750 P.2d 626 (1988) (collecting cases invalidating claims-filing provisions on constitutional grounds).

The sovereign immunity of local governmental entities derives solely from the State. Thus, the City's claim of sovereign immunity here must be one recognized by the State itself. See Riddoch v. State, 68 Wash. 329, 334, 123 P. 450 (1912); Kelso v. City of Tacoma, 63 Wn.2d 913, 916-17, 390 P.2d 2 (1964); see also Charles F. Abbott, Jr., Comment, Abolition of Sovereign Immunity in Washington, 36 Wash. L. Rev. 312, 316 (1961). Historically municipal sovereign immunity was only

available with respect to “governmental functions” similar to those performed by the State. Immunity was unavailable when the municipality functioned in a “proprietary” capacity. See Stephens & Harnetiaux, 30 Seattle U. L. Rev. at 38.

The line between the exercise of a “governmental function” and a “proprietary function” was not always clear. Id. at 38-39. However, in Lynch v. City of North Yakima, 37 Wash. 657, 80 P. 79 (1905), this Court recognized operation of a fire department as a governmental function. In Lynch, the municipality was found to be immune from suit by a fire department teamster, for injuries sustained due to the alleged negligence of the chief of the department. See 37 Wash. at 661-62. During this era, municipal law enforcement officers would also have served in a governmental, as opposed to proprietary, capacity. See Cunningham v. City of Seattle, 42 Wash. 134, 138-39, 84 P. 641 (1906) (indicating municipal officer or agent’s acts for the public good, such as preserving the peace, are governmental functions).

In 1961 the Legislature invoked its power under Art. II §26 and waived the State’s sovereign immunity, followed in 1967 by express waiver of sovereign immunity as to local governmental entities. See 1961 Laws, Ch. 136 §1 (codified as RCW 4.92.090); 1967 Laws, Ch. 164 §1 (codified as RCW 4.96.010).²

² The current versions of RCW 4.92.090 and RCW 4.96.010 are reproduced in the Appendix to this brief. Notably, in 1963 in Kelso v. Tacoma, 63 Wn.2d at 916-17, this Court construed the original version of RCW 4.92.090 as also waiving the sovereign immunity of municipalities, because their sovereignty only derived from the State.

2. **RCW 41.26.281 waives the sovereign immunity of municipalities regarding actions by LEOFF members.**

In establishing LEOFF, the Legislature created a unique system to provide sure and certain relief for law enforcement officers and fire fighters sustaining injury or death during the course of employment. See Ch. 41.26 RCW. In RCW 41.26.270, which sets forth a declaration of policy, the Legislature provides in pertinent part:

That the benefits and remedies conferred by this chapter upon law enforcement officers and fire fighters covered hereunder, shall be to the exclusion of any other remedy, proceeding or compensation for personal injuries or sickness, caused by the governmental employer, **except as otherwise provided by this chapter**; and to that end all civil actions and civil causes of actions by such law enforcement officers and fire fighters against their governmental employers for personal injuries or sickness are hereby abolished, **except as otherwise provided in this chapter.**

RCW 41.26.270 (emphasis added).³

Chapter 41.26 RCW *does* provide LEOFF members with a civil action in tort for injury or death occurring during the course of employment. RCW 41.26.281 states:

If injury or death results to a member from the intentional or negligent act or omission of a member's governmental employer, the member, the widow, widower, child, or dependent of the member shall have the privilege to benefit under this chapter **and also have cause of action against the governmental employer as otherwise provided by law, for any excess of damages over the amount received or receivable under this chapter.**

(Emphasis added) This statute is a straight-forward waiver of the City of Seattle's derivative sovereign immunity, with respect to civil actions

³ The full text of the current version of RCW 41.26.270 is reproduced in the Appendix.

against it by LEOFF members. The waiver is authorized under Washington Constitution, Art. II §26. See §A.1, supra; Wilson v. Seattle, 122 Wn.2d at 823-25 (concluding former RCW 64.40.020 waived sovereign immunity for non-tort claims against local governmental agencies for arbitrary, capricious or unlawful processing of land use permit applications); see also Lindell Br. at 17-18.

The City of Seattle contends RCW 41.26.281 must be read in conjunction with Ch. 4.96 RCW, governing tort actions against political subdivisions and local governmental entities, including municipal corporations. In particular, it contends that civil actions under RCW 46.21.281 must meet the “private person or corporation” requirement of RCW 4.96.010. See (Locke) City of Seattle Supp. Br. at 12-16; (Locke) City of Seattle Br. at 14-15. The current version of RCW 4.96.010 provides that political subdivisions and local governmental entities:

shall be liable for damages arising out of their tortious conduct, or the tortious conduct of their past or present officers, employees, or volunteers ... **to the same extent as if they were a private person or corporation**

(Emphasis added; see Appendix for the full text of the statute).

The City’s argument should be rejected.⁴ Clearly, RCW 41.26.270 rules out Ch. 4.96 RCW as a predicate for a cause of action by LEOFF

⁴ The Court of Appeals in Locke concluded that the “private person or corporation” requirement of RCW 4.96.010 was met, in any event. See 133 Wn.App. at 702-04.

members. The statute abolishes all civil actions “except as otherwise provided in this chapter.” This prohibition necessarily eliminates RCW 4.96.010 as the predicate authorization for tort actions by LEOFF members. On the other hand, the causes of action authorized by RCW 41.26.281 arise in the very chapter governing LEOFF.

This reading of RCW 41.26.270 & .281 is also wholly consistent with Ch. 4.96 RCW. Nothing in RCW 4.96.010, or any other provision in Ch. 4.96 RCW, indicates that the Legislature intended this statute to be the sole source for waiver of sovereign immunity regarding political subdivisions or local governmental entities. While the conditional waiver in Ch. 4.96 is broad, nothing prevents the Legislature from enacting, under Art. II §26, other more specific waivers of tort immunity. See Wilson, 122 Wn.2d at 823-25.⁵

Lindell correctly argues RCW 41.26.281 is a free-standing waiver of sovereign immunity. See Lindell Br. at 17-18. Further, as argued by amicus curiae International Association of Fire Fighters (IAFF) and Locke, if RCW 41.26.281 is required to be read with RCW 4.96.010, then RCW 41.26.281 becomes meaningless, because private sector employees under similar circumstances would not have a cause of action against their employer due to the immunity provisions of the Industrial Insurance Act,

⁵ The City argued below *inter alia*, that reading RCW 41.26.281 to itself waive sovereign immunity would render it unconstitutional under Washington Constitution, Art. II §19, requiring legislative bills have one subject, and that it be expressed in the title of the bill. See (Locke) City of Seattle Br. at 15. The Court of Appeals rejected this argument. See Locke, 133 Wn. App. at 704-06.

Title 51 RCW, particularly RCW 51.04.010 and RCW 51.32.010. See IAFF Am. Br. at 22-24; Locke Ans. to IAFF Am. Br. at 14-15.

By enacting RCW 41.26.281, the Legislature waived the City's sovereign immunity for civil actions by LEOFF members injured or killed during the course of employment due to their employer's tortious conduct. The LEOFF member need only show a cognizable basis for civil liability is provided under Washington statutory or common law.⁶ As the City otherwise has no sovereign immunity of its own, there is no basis for its challenge to this statute on sovereign immunity grounds.⁷

⁶ This should be the meaning of "otherwise provided by law" in RCW 41.26.281. While this phrase is often interpreted as referring only to positive law embodied in statutes, this is not always the case. Compare In re Estate of Sturman, 378 S.E.2d 204, 206 (N.C. App. 1989) (interpreting phrase as embracing both statutory and common law), with State v. Griffin, 877 P.2d 551, 553, n.2 (N.M. 1994) (noting generally "provided by law" means provided by statutes). Here, the phrase must be interpreted broadly, given the remedial nature of RCW 41.26.281. See Kelso, 63 Wn.2d at 918 (rejecting technical construction of RCW 4.92.090); see also Norman J. Singer, 3A Sutherland Statutory Construction, §73.02 at 606 (4th Ed. 1984) (noting workers' compensation statutes generally interpreted liberally in furtherance of beneficial purposes). Any other interpretation could give rise to anomalous results. For example, Lindell's statutorily-based wrongful death claim would be covered, but Locke's common law negligence claim would not.

To the extent this Court's opinion in Taylor v. Edwards, 89 Wn.2d 315, 320, 571 P.2d 1388 (1977), interpreting a predecessor to RCW 41.26.281, suggests the "otherwise provided by law" language references RCW 4.96.010, this reading overlooks the effect of RCW 41.26.270. See supra text at 8-9.

⁷ The City does not respond to the argument that RCW 41.26.281 is a separate waiver of sovereign immunity, other than to insist RCW 41.26.281 must be read with RCW 4.96.010 in order to avoid alleged constitutional infirmities under Washington Constitution, Art. I §12 and Art. II §19. See (Lindell) City of Seattle Br. at 20-24; (Locke/Lindell) City of Seattle Ans. to IAFF Am. Br. at 8-20. These challenges are addressed in the briefing of Locke and Lindell.

Lastly, the City's contention that the Stephens & Harnetiaux article supports its argument that RCW 4.96.010's "private persons and corporations" requirement must be met in any tort action against a municipality is incorrect. See (Lindell) City of Seattle Reply Br. at 21-22. This article does not comment on the effect of free-standing waivers of sovereign immunity such as RCW 41.26.281, or the relevancy of RCW 4.96.010 under such circumstances. It only discusses the meaning of the language in RCW 4.96.010, and the similar language in RCW 4.92.090. See Stephens & Harnetiaux, 30 Seattle U. L. Rev. at 35-37.

B. The City’s Constitutionally-Based *Quid Pro Quo* Argument Is Unclear, And Is Not Supported By Case Law.

Preliminarily, it is unclear from the City’s briefing as to whether its “constitutionally mandated *quid pro quo*” analysis, see supra text at 2, is state or federal in nature. It is also uncertain whether it is part of its due process and privileges and immunities/equal protection arguments, or is a free-standing due process argument. See (Lindell) City of Seattle Br. at 9-15; (Lindell) City of Seattle Reply Br. at 2-3, 15. This brief addresses the City’s *quid pro quo* argument as a free-standing due process argument, under either the federal or state constitution.⁸

1. The City has not established *quid pro quo* as a constitutionally-based principle.

The City principally relies upon a quote from the U.S. Supreme Court in Mountain Timber, regarding the *quid pro quo* underpinnings of Washington’s 1911 Industrial Insurance Act. See 243 U.S. at 234; (Lindell) City of Seattle Br. at 12. However, this is the only reference to *quid pro quo* in Mountain Timber, and it does not clearly frame this principle as one of constitutional magnitude. The federal due process analysis that follows in the opinion is largely based on whether the act is arbitrary or oppressive. Id. at 235-43. As yet, the U.S. Supreme Court has not read the federal due process clause as embodying a *quid pro quo* feature. See Duke Power Co. v. Carolina Env. Study Gp., 438 U.S. 59,

⁸ The impact of the *quid pro quo* analysis on the City’s privileges and immunities/equal protection arguments is not addressed in this brief. This analysis does surface in the City’s privileges and immunities/equal protection arguments. See (Locke) City of Seattle Supp. Br. at 12; (Lindell) City of Seattle Reply Br. at 15-16.

87-88, 93 (1978) (declining to recognize plaintiff's entitlement to *quid pro quo* substitute remedy for common law state tort remedy, but concluding the substitute remedy would meet any due process *quid pro quo* requirement).

Nor is there a clear constitutionally-based *quid pro quo* pronouncement by this Court, grounded in the Washington Constitution. The Court's decision in Mountain Timber upheld the Industrial Insurance Act based on notions of state sovereignty and the plenary police power of the Legislature. See 75 Wash. at 587-90. When *quid pro quo* has been discussed in the workers' compensation context, it has not been expressly characterized as a constitutional principle. See e.g. McCarthy v. Social & Health Servs., 110 Wn.2d 812, 817, 759 P.2d 351 (1988) (noting "Washington has long recognized that the Act does not contemplate that an employee's common law remedy can be abolished without providing a substitute remedy"); Manor v. Nestle Food Co., 131 Wn.2d 439, 449-50, 932 P.2d 628 (1997) (recognizing self-insured employer that fulfills obligations under the Industrial Insurance Act is "entitled to its side of the *quid pro quo* central to the entire workers' compensation statutory design").

In Sofie v. Fibreboard Corp., 112 Wn.2d 636, 651, 771 P.2d 711, 780 P.2d 260 (1989), this Court did note, regarding its decision in Mountain Timber, that because the use of the police power "was done for the public health and welfare and a comprehensive scheme of

compensation was inserted in its place, the abolition of a cause of action was not unconstitutional.” In Sofie, the Court was talking about the rights of employees, not employers. In the accompanying footnote to this passage, the Court added:

We note here that while the Legislature has the power to abolish the civil cause of action, Mountain Timber establishes that such a legislative act must have its own independent constitutional foundation.

Id. at n.5. Thus, the discussion in Sofie of *quid pro quo* as a constitutionally based principle only references Washington citizens’ right to common law remedies available at the time the constitution was adopted.⁹

The City has failed to support its claim to a constitutionally-mandated *quid pro quo*. The cases relied upon by the City involve statutory analysis, and fall short of announcing a constitutionally-based *quid pro quo* doctrine. See (Lindell) City of Seattle Br. at 9-15.¹⁰

⁹ WSTLA Foundation has advocated for the creation of a right to a remedy under the Washington Constitution, Art. I §10, and related provisions. The formula proposed has been that a citizen’s right to a common law remedy existing at the time the Constitution was adopted could not be abrogated absent a reasonable substitute remedy or an overpowering public necessity. This argument was most recently made in 1515-1519 Lakeview Boulevard Condominium Assn. v. Geotech Consultants, Inc. (S.C. #70324-8), “Brief of Amicus Curiae Washington State Trial Lawyers Association Foundation.” However, the Court declined to decide whether Washington Constitution Art. I §10 embodies a right to a remedy. See Condo. Assn. v. Apartment Sales Corp., 144 Wn.2d 570, 581-82, 29 P.3d 1249 (2001).

¹⁰ The cases discussed by the City may have some relevance to the equal protection/privileges and immunities claims before the Court, issues not addressed in this brief.

2. The 1911 Industrial Insurance Act does not set a baseline standard for *quid pro quo*, in any event.

Lastly, the City appears to base its *quid pro quo* analysis on the 1911 “great compromise,” resulting in promulgation of the Industrial Insurance Act. See (Lindell) City Br. at 8-15. The argument seems to be that the “lesser” protections for municipal employers under RCW 41.26.281 fail to comport with the *quid pro quo* principle reflected in the 1911 act.¹¹ Yet, there is no case establishing that the Industrial Insurance Act *quid pro quo* formulation is the baseline for measuring the validity of similar legislative schemes. As Locke points out, see Locke Supp. Br. at 10, the City’s reliance on cases like Shaughnessy v. Northland Steamship Co., 94 Wash. 325, 330-32, 162 P. 546 (1917), for this proposition is misguided, as the analysis is one of statutory construction of the Industrial Insurance Act, against the backdrop of federal maritime law. See also State ex rel. Fletcher v. Carroll, 94 Wash. 531, 536, 162 P. 533 (1917) (interpreting Industrial Insurance Act as providing that where municipality provided benefits by charter for disabled workers, workers could not pursue civil action for negligence).

Ultimately, any *quid pro quo* analysis of LEOFF should be undertaken with regard to the unique circumstances surrounding its

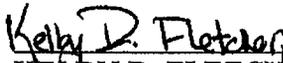
¹¹ Under the original Industrial Insurance Act, employers were only subject to suit by employees for intentional injuries resulting from the “deliberate intention of the employer to produce such injury or death.” See 1911 Laws, Ch. 74 §6.

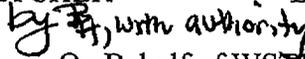
enactment. The Legislature did not establish an immutable *quid pro quo* formula when it crafted the original Industrial Insurance Act.¹²

VI. CONCLUSION

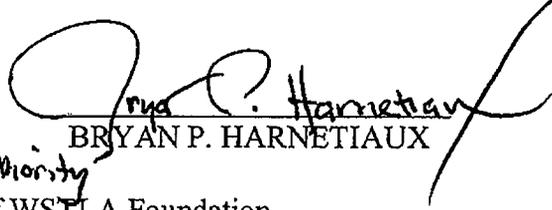
The Court should adopt the analysis advanced in this brief in addressing the sovereign immunity and *quid pro quo* issues.

DATED this 29th day of May, 2007.


KELBY D. FLETCHER

by , with authority

On Behalf of WSTLA Foundation


BRYAN P. HARNETIAUX

FILED AS ATTACHMENT
TO E-MAIL

¹² The Legislature would be fully justified in using a different lens in balancing interests between LEOFF employers and members than that used in the larger workers' compensation context. No one questions that the work of law enforcement officers and fire fighters is dangerous. Washington Constitution, Art. II §35 requires the Legislature to "pass necessary laws for the protection of persons working in mines, factories and other employments dangerous to life or deleterious to health; and fix pains and penalties for the enforcement of the same."

APPENDIX

RCW 4.92.090

Tortious conduct of state — Liability for damages.

The state of Washington, whether acting in its governmental or proprietary capacity, shall be liable for damages arising out of its tortious conduct to the same extent as if it were a private person or corporation.

[1963 c 159 § 2; 1961 c 136 § 1.]

RCW 4.96.010

Tortious conduct of local governmental entities — Liability for damages.

(1) All local governmental entities, whether acting in a governmental or proprietary capacity, shall be liable for damages arising out of their tortious conduct, or the tortious conduct of their past or present officers, employees, or volunteers while performing or in good faith purporting to perform their official duties, to the same extent as if they were a private person or corporation. Filing a claim for damages within the time allowed by law shall be a condition precedent to the commencement of any action claiming damages. The laws specifying the content for such claims shall be liberally construed so that substantial compliance therewith will be deemed satisfactory.

(2) Unless the context clearly requires otherwise, for the purposes of this chapter, "local governmental entity" means a county, city, town, special district, municipal corporation as defined in RCW 39.50.010, quasi-municipal corporation, or public hospital.

(3) For the purposes of this chapter, "volunteer" is defined according to RCW 51.12.035.

[2001 c 119 § 1; 1993 c 449 § 2; 1967 c 164 § 1.]

RCW 41.26.270

Declaration of policy respecting benefits for injury or death — Civil actions abolished.

The legislature of the state of Washington hereby declares that the relationship between members of the law enforcement officers' and fire fighters' retirement system and their governmental employers is similar to that of workers to their employers and that the sure and certain relief granted by this chapter is desirable, and as beneficial to such law enforcement officers and fire fighters as workers' compensation coverage is to persons covered by Title 51 RCW. The legislature further declares that removal of law enforcement officers and fire fighters from workers' compensation coverage under Title 51 RCW necessitates the (1) continuance of sure and certain relief for personal injuries incurred in the course of employment or occupational disease, which the legislature finds to be accomplished by the provisions of this chapter and (2) protection for the governmental employer from actions at law; and to this end the legislature further declares that the benefits and remedies conferred by this chapter upon law enforcement officers and fire fighters covered hereunder, shall be to the exclusion of any other remedy, proceeding, or compensation for personal injuries or sickness, caused by the governmental employer except as otherwise provided by this chapter; and to that end all civil actions and civil causes of actions by such law enforcement officers and fire fighters against their governmental employers for personal injuries or sickness are hereby abolished, except as otherwise provided in this chapter.

[1989 c 12 § 13; 1987 c 185 § 13; 1985 c 102 § 4; 1971 ex.s. c 257 § 14.]