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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **103**

January 15, 2009

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The bill was read for the first time and referred to the Committee on Civil Justice

February 26, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to state tort claims; removing the single occurrence liability cap;
1.3 conforming cross references; amending Minnesota Statutes 2008, sections 3.736,
1.4 subdivisions 4, as amended, 7; 3.7393, subdivision 11; 3.7394, subdivision 6.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **FINDINGS.**

1.7 The legislature finds that the state and municipal tort liability limitations contained
1.8 in Minnesota Statutes, sections 3.736 and 466.04, are rationally related to the legitimate
1.9 government objective of ensuring fiscal stability to meet and carry out the manifold
1.10 responsibilities of government. The legislature finds that, unlike municipalities, the state
1.11 of Minnesota has the fiscal capacity and ability to absorb the cost of and pay for multiple
1.12 tort claims arising out of a single occurrence without a dollar limitation on that liability.
1.13 The ability of the state to respond to monetary judgments is quantitatively greater than that
1.14 of a municipality because of significant differences in the size of their respective budgets
1.15 and their tax base and taxing authority. A limitation on the total liability of municipalities
1.16 for multiple tort claims arising out of a single occurrence is necessary to protect the fiscal
1.17 stability and integrity of municipalities and to protect the taxpayers within municipalities
1.18 from the effect of unlimited tort liability exposure. The legislature retains and reaffirms
1.19 the public purpose served by the continuance of the limitation on liability for tort claims
1.20 arising out of a single occurrence applicable to municipalities under Minnesota Statutes,
1.21 section 466.04.

1.22 Sec. 2. Minnesota Statutes 2008, section 3.736, subdivision 4, is amended to read:

2.1 Subd. 4. **Limits.** (a) The total liability of the state and its employees acting within
2.2 the scope of their employment on any tort claim shall not exceed:

2.3 ~~(a)~~ (1) \$300,000 when the claim is one for death by wrongful act or omission and
2.4 \$300,000 to any claimant in any other case, for claims arising before August 1, 2007;

2.5 ~~(b)~~ (2) \$400,000 when the claim is one for death by wrongful act or omission and
2.6 \$400,000 to any claimant in any other case, for claims arising on or after August 1, 2007,
2.7 and before July 1, 2009;

2.8 ~~(c)~~ (3) \$500,000 when the claim is one for death by wrongful act or omission and
2.9 \$500,000 to any claimant in any other case, for claims arising on or after July 1, 2009;

2.10 ~~(d)~~ (4) \$750,000 for any number of claims arising out of a single occurrence, for
2.11 claims arising on or after January 1, 1998, and before January 1, 2000;

2.12 ~~(e)~~ (5) \$1,000,000 for any number of claims arising out of a single occurrence, for
2.13 claims arising on or after January 1, 2000, and before January 1, 2008; or

2.14 ~~(f)~~ (6) \$1,200,000 for any number of claims arising out of a single occurrence, for
2.15 claims arising on or after January 1, 2008, and before ~~July 1, 2009~~; or

2.16 ~~(g)~~ \$1,500,000 for any number of claims arising out of a single occurrence, for
2.17 ~~claims arising on or after July 1, 2009.~~

2.18 (b) There is no limit on the total liability of the state and its employees acting within
2.19 the scope of their employment for any number of claims arising out of a single occurrence
2.20 for claims arising on or after July 1, 2009.

2.21 (c) If the amount awarded to or settled upon multiple claimants exceeds the
2.22 applicable limit under clause (d), (e), (f), or (g) paragraph (a), clause (4), (5), or (6),
2.23 any party may apply to the district court to apportion to each claimant a proper share of
2.24 the amount available under the applicable limit under clause (d), (e), (f), or (g). The
2.25 share apportioned to each claimant shall be in the proportion that the ratio of the award
2.26 or settlement bears to the aggregate awards and settlements for all claims arising out
2.27 of the occurrence.

2.28 (d) The limitation imposed by this subdivision on individual claimants includes
2.29 damages claimed for loss of services or loss of support arising out of the same tort.

2.30 **EFFECTIVE DATE.** This section is effective July 1, 2009.

2.31 Sec. 3. Minnesota Statutes 2008, section 3.736, subdivision 7, is amended to read:

2.32 Subd. 7. **Payment.** A state agency, including an entity defined as part of the state
2.33 in section 3.732, subdivision 1, clause (1), incurring a tort claim judgment or settlement
2.34 obligation or whose employees acting within the scope of their employment incur the
2.35 obligation shall seek approval to make payment by submitting a written request to the

3.1 commissioner of finance. The request shall contain a description of the tort claim that
3.2 causes the request, specify the amount of the obligation and be accompanied by copies of
3.3 judgments, settlement agreements or other documentation relevant to the obligation for
3.4 which the agency seeks payment. Upon receipt of the request and review of the claim, the
3.5 commissioner of finance shall determine the proper appropriation from which to make
3.6 payment. If there is enough money in an appropriation or combination of appropriations
3.7 to the agency for its general operations and management to pay the claim without unduly
3.8 hindering the operation of the agency, the commissioner shall direct that payment be
3.9 made from that source, except that payment may not be made from the trunk highway
3.10 fund in excess of the amount specifically appropriated by the legislature for payment of
3.11 tort claims. Claims relating to activities paid for by appropriations of dedicated receipts
3.12 shall be paid from those appropriations if practicable. On determining that an agency has
3.13 sufficient money in these appropriations to pay only part of a claim, the commissioner
3.14 shall pay the remainder of the claim from the money appropriated to the commissioner
3.15 for the purpose. On determining that the agency does not have enough money to pay any
3.16 part of the claim, the commissioner shall pay all of the claim from money appropriated
3.17 to the commissioner for the purpose. Payment shall be made only upon receipt of a
3.18 written release by the claimant in a form approved by the attorney general, or the person
3.19 designated as the university attorney, as the case may be.

3.20 No attachment or execution shall issue against the state.

3.21 Sec. 4. Minnesota Statutes 2008, section 3.7393, subdivision 11, is amended to read:

3.22 Subd. 11. **Offers of settlement; limit on amount.** (a) The amount of an offer of
3.23 settlement or payment required by a settlement agreement must not exceed \$400,000.
3.24 This limitation does not apply to a supplemental payment made under subdivision 12. An
3.25 offer of settlement must be accompanied by a notice to the survivor of the remainder of
3.26 the amount calculated under subdivision 10 that is not included in the offer because of the
3.27 limitation under this paragraph and the amount of the remainder for which a supplemental
3.28 payment may be awarded.

3.29 (b) Notwithstanding section 3.736, subdivision 4, paragraph (a), clause ~~(e)~~ (5), or
3.30 466.04, subdivision 1, paragraph (a), clause (5), the \$1,000,000 limitation on state or
3.31 municipal liability for claims arising out of a single occurrence otherwise applicable to the
3.32 catastrophe does not apply to payments made to survivors under this section. The amount
3.33 that may be paid by the state is limited by the appropriations for this purpose.

3.34 **EFFECTIVE DATE.** This section is effective July 1, 2009.

4.1 Sec. 5. Minnesota Statutes 2008, section 3.7394, subdivision 6, is amended to read:

4.2 Subd. 6. **Amounts not considered for purposes of limit on government tort**
4.3 **liability.** Payments made to survivors under section 3.7393 or from the emergency relief
4.4 fund are not to be considered in calculating the \$1,000,000 limit on tort claims in civil
4.5 actions against the state arising out of the catastrophe for purposes of section 3.736,
4.6 subdivision 4, paragraph (a), clause ~~(e)~~ (5), or a municipality arising out of the catastrophe
4.7 for purposes of section 466.04, subdivision 1, clause (5).

4.8 **EFFECTIVE DATE.** This section is effective July 1, 2009.

4.9 Sec. 6. **CONTINGENT REPEALER.**

4.10 The amendments in sections 2 to 5 are repealed if a final nonappealable court
4.11 decision holds that the limit in Minnesota Statutes, section 466.04, subdivision 1,
4.12 paragraph (a), clause (7), is unconstitutional based on the amendments in this act.