

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -  
2008**

**COMMITTEE STATEMENT**

**LB821**

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**Hearing Date:** January 28, 2008

**Committee On:** Business and Labor

**Introducer(s):** (Business and Labor Committee)

**Title:** Change provisions relating to claims against the state and the Risk Manager

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**Roll Call Vote - Final Committee Action:**

Placed on General File with Amendments

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**Vote Results:**

6 Yes	Senators Cornett, Lathrop, McGill, Rogert, Wallman, White
0 No	
1 Absent	Senators Chambers
0 Present, not voting	

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**Proponents:**  
Senator Abbie Cornett  
Laura Peterson

**Representing:**  
District 45  
Department of Administrative Services

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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## Summary of purpose and/or change:

LB 821, introduced at the request of the Department of Administrative Services, would make numerous changes to the processing of claims against the state. The changes would allow claimants to receive payment more quickly by allowing the Risk Manager additional authority to determine claims. Claimants will retain their right to appeal from the Risk Manager's decision and the timelines to apply for such review would be extended to encompass this change.

The Claims Board's approval authority for Miscellaneous Claims would be increased from \$10,000 to \$50,000, thereby increasing the corresponding legislative review to claims greater than \$50,000.

Finally, when an agency or claimant objects to the board's jurisdiction over a contract claim, a deadline is placed on the time to file suit after the Risk Manager receives written notification of the objection.

The bill would provide, section by section as follows:

### **Tort Claims Act**

Section 1: would amend section 81-8,210 to include technical cleanup; inserts the definition of Risk Manager within the Tort Claims Act.

Section 2: would amend section 81-8,211 to authorize the State Risk Manager to consider ascertain, adjust, compromise, settle, determine or authorize any tort claim less than \$5,000. Approval by the Claims board is required for any claim from \$5,000 up to \$10,000. Claims exceeding \$10,000 would require unanimous approval of the Board.

Section 3: would amend section 81-8,213 to make the Attorney General the official legal advisor to the State Risk Manager in addition to the State Claims Board for tort claims.

Section 4: would amend 81-8,213 to insert "the Risk Manager" as an entity able to make final dispositions on tort claims in addition to the Claims Board for purposes of determining when suit can be filed under the State Tort Claims Act; clarifies that claims are to be filed with the Risk Manager; and claims may be withdrawn from either "the Risk Manager" or the State Claims Board.

Section 5: would amend 81-8,220 to make the hiring of a secretary for the Claims Board discretionary as opposed to mandatory.

Section 6: would amend 81-8, 224 to allow the Risk Manager to certify claims for payment to the Department of Administrative Services.

Section 7: would amend 81-8,227 to adjust the statute of limitations of the tort claims act, by requiring the claim to be filed with the risk manager instead of the claims board; and to extend the time period to file suit by six months if the claim is disposed of by the Risk Manager (in the same manner as it would be extended if the Claims Board disposes of the claim.)

Section 8: would amend 81-8,228 to allow the risk manager to award attorney's fees which is in addition to the claims board's existing authority to do the same.

### **Miscellaneous Claims Act**

Section 9: would amend 81-8,300 to increase the Risk Manager's authority to determine misc. claims from \$2,000 to \$5,000; authorizes the Risk Manager to place conditions or limitations on approved claims and to deny claims; requires the Risk Manager to notify the claimant of dispositions made by the Risk Manager, such notification must contain the following provisions: the decision of the risk manager and the claimants right of review by the Board.

Section 9 also establishes the claimant's right to appeal from the Risk Manager's decision to the Claims Board and retains the existing appeal right from the Board to the Legislature. This section allows the Risk Manager to submit claims for payment up to \$5,000 and raises the Claim's Board approval authority from \$10,000 to \$50,000.

### **Contract Claims Act**

Section 10: would amend 81-8,305 to insert a one-year deadline for filing suit in the District Court of Lancaster County calculated from the day the Risk Manager receives written objection to the Board's jurisdiction.

Section 11: Repealers.

### **Explanation of amendments, if any:**

The committee amendment AM 1868 would increase the timeline for filing suit from "one year" to "two years" calculated from the date the Risk Manager receives written objection to the Board's jurisdiction over a contract dispute.

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Senator Abbie Cornett, Chairperson