24-10-102 – Declaration of policy:
It is recognized by the general assembly that the doctrine of sovereign immunity, whereunder the state and its political subdivisions are often immune from suit for injury suffered by private persons, is, in some instances, an inequitable doctrine. The general assembly also recognizes that the supreme court has abrogated the doctrine of sovereign immunity effective July 1, 1972, and that thereafter the doctrine shall be recognized only to such extent as may be provided by statute. The general assembly also recognizes that the state and its political subdivisions provide essential public services and functions and that unlimited liability could disrupt or make prohibitively expensive the provision of such essential public services and functions. The general assembly further recognizes that the taxpayers would ultimately bear the fiscal burdens of unlimited liability and that limitations on the liability of public entities and public employees are necessary in order to protect the taxpayers against excessive fiscal burdens. It is also recognized that public employees, whether elected or appointed, should be provided with protection from unlimited liability so that such public employees are not discouraged from providing the services or functions required by the citizens or from exercising the powers authorized or required by law. It is further recognized that the state, its political subdivisions, and the public employees of such public entities, by virtue of the services and functions provided, the powers exercised, and the consequences of unlimited liability to the governmental process, should be liable for their actions and those of their agents only to such an extent and subject to such conditions as are provided by this article. The general assembly also recognizes the desirability of including within one article all the circumstances under which the state, any of its political subdivisions, or the public employees of such public entities may be liable in actions which lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant and that the distinction for liability purposes between governmental and proprietary functions should be abolished.

24-10-103 - Definitions.

As used in this article, unless the context otherwise requires:

(1) "Dangerous condition" means a physical condition of a facility or the use thereof that constitutes an unreasonable risk to the health or safety of the public, which is known to exist or which in the exercise of reasonable care should have been known to exist and which condition is proximately caused by the negligent act or omission of the public entity or public employee in constructing or maintaining such facility. For the purposes of this subsection (1), a dangerous condition should have been known to exist if it is established that the condition had existed for such a period and was of such a nature that, in the exercise of reasonable care, such condition and its dangerous character should have been discovered. A dangerous condition shall not exist solely because the design of any facility is inadequate. The mere existence of wind, water, snow, ice, or temperature shall not, by itself, constitute a dangerous condition.
(1.5) "Health care practitioner" means a physician, dentist, clinical psychologist, or any other person acting at the direction or under the supervision or control of any such persons.

(2) "Injury" means death, injury to a person, damage to or loss of property, of whatsoever kind, which, if inflicted by a private person, would lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant.

(2.5) "Maintenance" means the act or omission of a public entity or public employee in keeping a facility in the same general state of repair or efficiency as initially constructed or in preserving a facility from decline or failure. "Maintenance" does not include any duty to upgrade, modernize, modify, or improve the design or construction of a facility.

(2.7) "Motor vehicle" means a motor vehicle as defined in section 42-1-102, C.R.S., and a light rail car or engine owned or leased by a public entity.

(3) (a) "Operation" means the act or omission of a public entity or public employee in the exercise and performance of the powers, duties, and functions vested in them by law with respect to the purposes of any public hospital, jail, or public water, gas, sanitation, power, or swimming facility. "Operation" does not include any duty to upgrade, modernize, modify, or improve the design or construction of a facility.

(b) The term "operation" shall not be construed to include:

(I) A failure to exercise or perform any powers, duties, or functions not vested by law in a public entity or employee with respect to the purposes of any public facility set forth in paragraph (a) of this subsection (3);

(II) A negligent or inadequate inspection or a failure to make an inspection of any property, except property owned or leased by the public entity, to determine whether such property constitutes a hazard to the health or safety of the public.

(4) (a) "Public employee" means an officer, employee, servant, or authorized volunteer of the public entity, whether or not compensated, elected, or appointed, but does not include an independent contractor or any person who is sentenced to participate in any type of useful public service. For the purposes of this subsection (4), "authorized volunteer" means a person who performs an act for the benefit of a public entity at the request of and subject to the control of such public entity and includes a qualified volunteer as defined in section 24-32-2202 (6).

(b) "Public employee" includes any of the following:

(I) Any health care practitioner employed by a public entity, except for any health care practitioner who is employed on less than a full-time basis by a public entity and who additionally has an independent or other health care practice. Any such person employed
on less than a full-time basis by a county or a district public health agency and who additionally has an independent or other health care practice shall maintain the status of a public employee only when such person engages in activities at or for the county or the district public health agency that are within the course and scope of such person's responsibilities as an employee of the county or the district public health agency. For purposes of this subparagraph (I), work performed as an employee of another public entity or of an entity of the United States government shall not be considered to be an independent or other health care practice.

(II) Any health care practitioner employed part-time by and holding a clinical faculty appointment at a public entity as to any injury caused by a health care practitioner-in-training under such health care practitioner's supervision. Any such person shall maintain the status of a public employee when such person engages in supervisory and educational activities over a health care practitioner-in-training at a nonpublic entity if said activities are within the course and scope of such person's responsibilities as an employee of a public entity.

(III) Any health care practitioner-in-training who is duly enrolled and matriculated in an educational program of a public entity and who is working at either a public entity or a nonpublic entity. Any such person shall maintain the status of a public employee when such person engages in professional or educational activities at a nonpublic entity if said activities are within the course and scope of such person's responsibilities as a student or employee of a public entity.

(IV) Any health care practitioner who is a nurse licensed under article 38 of title 12, C.R.S., employed by a public entity. Any such person shall maintain the status of a public employee only when such person engages in activities at or for the public entity which are within the course and scope of such person's responsibilities as an employee of the public entity.

(V) Any health care practitioner who volunteers services at or on behalf of a public entity, or who volunteers services as a participant in the community maternity services program;

(VI) Any release hearing officer utilized by the department of corrections and the state board of parole pursuant to section 17-2-217 (1), C.R.S. A release hearing officer shall maintain the status of a public employee only when the release hearing officer engages in activities that are within the course and scope of his or her responsibilities as a release hearing officer.

(VII) Any administrative hearing officer utilized by the department of corrections and the state board of parole pursuant to section 17-2-201 (3) (c) (I), C.R.S. An administrative hearing officer shall maintain the status of a public employee only when the administrative hearing officer engages in activities that are within the course and scope of his or her responsibilities as an administrative hearing officer.
(5) "Public entity" means the state, county, city and county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof organized pursuant to law and any separate entity created by intergovernmental contract or cooperation only between or among the state, county, city and county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof.

(5.5) "Public sanitation facility" means structures and related apparatus used in the collection, treatment, or disposition of sewage or industrial wastes of a liquid nature that is operated and maintained by a public entity. "Public sanitation facility" does not include: A public water facility; a natural watercourse even if dammed, channelized, or containing storm water runoff, discharge from a storm sewer, or discharge from a sewage treatment plant outfall; a drainage, borrow, or irrigation ditch even if the ditch contains storm water runoff or discharge from storm sewers; a curb and gutter system; or other drainage, flood control, and storm water facilities.

(5.7) "Public water facility" means structures and related apparatus used in the collection, treatment, or distribution of water for domestic and other legal uses that is operated and maintained by a public entity. "Public water facility" does not include: A public sanitation facility; a natural watercourse even if dammed, channelized, or used for transporting domestic water supplies; a drainage, borrow, or irrigation ditch even if dammed, channelized, or containing storm water runoff or discharge; or a curb and gutter system.

(6) "Sidewalk" means that portion of a public roadway between the curb lines or the lateral lines of the traveled portion and the adjacent property lines which is constructed, designed, maintained, and intended for the use of pedestrians.

24-10-104 – Waiver of sovereign immunity.

Notwithstanding any provision of law to the contrary, the governing body of a public entity, by resolution, may waive the immunity granted in section 24-10-106 for the types of injuries described in the resolution. Any such waiver may be withdrawn by the governing body by resolution. A resolution adopted pursuant to this section shall apply only to injuries occurring subsequent to the adoption of such resolution.

24-10-105 - Prior waiver of immunity – effect – indirect claims not separate.

(1) It is the intent of this article to cover all actions which lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant. No public entity shall be liable for such actions except as provided in this article, and no public employee shall be liable for injuries arising out of an act or omission occurring during the performance of his or her duties and within the scope of his or her employment, unless such act or omission was willful and wanton, except as provided in this article. Nothing in this section shall be construed to allow any action
which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant to be brought against a public employee except in compliance with the requirements of this article.

(2) (a) A reference in this article to an injury, claim, or action that "lies in tort or could lie in tort" shall be construed in all cases to include, in addition to a direct claim or action, a claim or action asserted by way of assignment or subrogation to recover from a public entity or public employee the amount paid on a damages claim or the amount that may become payable on a damages claim because of the occurrence of an injury, as defined in section 24-10-103 (2).

(b) In any case in which an assignee or subrogee asserts an injury governed by this article:

(I) The injury shall not be deemed to be separate from the injury suffered by the assignor or subrogor; and

(II) Pursuant to section 24-10-114 (1.5), the assignment or subrogation concerning the injury shall not be deemed to be a separate occurrence with regard to limitations on judgments

24-10-106 - Immunity and partial waiver.

(1) A public entity shall be immune from liability in all claims for injury which lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant except as provided otherwise in this section. Sovereign immunity is waived by a public entity in an action for injuries resulting from:

(a) The operation of a motor vehicle, owned or leased by such public entity, by a public employee while in the course of employment, except emergency vehicles operating within the provisions of section 42-4-108 (2) and (3), C.R.S.;

(b) The operation of any public hospital, correctional facility, as defined in section 17-1-102, C.R.S., or jail by such public entity;

(c) A dangerous condition of any public building;

(d) (I) A dangerous condition of a public highway, road, or street which physically interferes with the movement of traffic on the paved portion, if paved, or on the portion customarily used for travel by motor vehicles, if unpaved, of any public highway, road, street, or sidewalk within the corporate limits of any municipality, or of any highway which is a part of the federal interstate highway system or the federal primary highway system, or of any highway which is a part of the federal secondary highway system, or of any highway which is a part of the state highway system on that portion of such highway, road, street, or sidewalk which was designed and intended for public travel or parking thereon. As used in this section, the phrase "physically interferes with the movement of
“traffic” shall not include traffic signs, signals, or markings, or the lack thereof. Nothing in this subparagraph (I) shall preclude a particular dangerous accumulation of snow, ice, sand, or gravel from being found to constitute a dangerous condition in the surface of a public roadway when the entity fails to use existing means available to it for removal or mitigation of such accumulation and when the public entity had actual notice through the proper public official responsible for the roadway and had a reasonable time to act.

(II) A dangerous condition caused by the failure to realign a stop sign or yield sign which was turned, without authorization of the public entity, in a manner which reassigned the right-of-way upon intersecting public highways, roads, or streets, or the failure to repair a traffic control signal on which conflicting directions are displayed;

(III) A dangerous condition caused by an accumulation of snow and ice which physically interferes with public access on walks leading to a public building open for public business when a public entity fails to use existing means available to it for removal or mitigation of such accumulation and when the public entity had actual notice of such condition and a reasonable time to act.

(e) A dangerous condition of any public hospital, jail, public facility located in any park or recreation area maintained by a public entity, or public water, gas, sanitation, electrical, power, or swimming facility. Nothing in this paragraph (e) or in paragraph (d) of this subsection (1) shall be construed to prevent a public entity from asserting sovereign immunity for an injury caused by the natural condition of any unimproved property, whether or not such property is located in a park or recreation area or on a highway, road, or street right-of-way.

(f) The operation and maintenance of any public water facility, gas facility, sanitation facility, electrical facility, power facility, or swimming facility by such public entity;

(g) The operation and maintenance of a qualified state capital asset that is the subject of a leveraged leasing agreement pursuant to the provisions of part 10 of article 82 of this title;

(h) Failure to perform an education employment required background check as described in section \[13-80-103.9\], C.R.S.

(1.5) (a) The waiver of sovereign immunity created in paragraphs (b) and (e) of subsection (1) of this section does not apply to claimants who have been convicted of a crime and incarcerated in a correctional facility or jail pursuant to such conviction, and such correctional facility or jail shall be immune from liability as set forth in subsection (1) of this section.

(b) The waiver of sovereign immunity created in paragraphs (b) and (e) of subsection (1) of this section does apply to claimants who are incarcerated but not yet convicted of the crime for which such claimants are being incarcerated if such claimants can show injury due to negligence.
(c) The waiver of sovereign immunity created in paragraph (e) of subsection (1) of this section does not apply to any backcountry landing facility located in whole or in part within any park or recreation area maintained by a public entity. For purposes of this paragraph (c), "backcountry landing facility" means any area of land or water that is unpaved, unlighted, and in a primitive condition and is used or intended for the landing and takeoff of aircraft, and includes any land or water appurtenant to such area.

(2) Nothing in this section or in section 24-10-104 shall be construed to constitute a waiver of sovereign immunity where the injury arises from the act, or failure to act, of a public employee where the act is the type of act for which the public employee would be or heretofore has been personally immune from liability.

(3) In addition to the immunity provided in subsection (1) of this section, a public entity shall also have the same immunity as a public employee for any act or failure to act for which a public employee would be or heretofore has been personally immune from liability.

(4) No rule of law imposing absolute or strict liability shall be applied in any action against a public entity or a public employee for an injury resulting from a dangerous condition of, or the operation and maintenance of, a public water facility or public sanitation facility. No liability shall be imposed in any such action unless negligence is proven.

24-10-106.5 - Duty of care.

(1) In order to encourage the provision of services to protect the public health and safety and to allow public entities to allocate their limited fiscal resources, a public entity or public employee shall not be deemed to have assumed a duty of care where none otherwise existed by the performance of a service or an act of assistance for the benefit of any person. The adoption of a policy or a regulation to protect any person's health or safety shall not give rise to a duty of care on the part of a public entity or public employee where none otherwise existed. In addition, the enforcement of or failure to enforce any such policy or regulation or the mere fact that an inspection was conducted in the course of enforcing such policy or regulation shall not give rise to a duty of care where none otherwise existed; however, in a situation in which sovereign immunity has been waived in accordance with the provisions of this article, nothing shall be deemed to foreclose the assumption of a duty of care by a public entity or public employee when the public entity or public employee requires any person to perform any act as the result of such an inspection or as the result of the application of such policy or regulation. Nothing in this section shall be construed to relieve a public entity of a duty of care expressly imposed under other statutory provision.

(2) Nothing in this article shall be deemed to create any duty of care.
24-10-107 - Determination of liability.

Except as otherwise provided in this article, where sovereign immunity is not a bar under section 24-10-106, liability of the public entity shall be determined in the same manner as if the public entity were a private person.

24-10-108 - Sovereign immunity a bar.

Except as provided in sections 24-10-104 to 24-10-106, sovereign immunity shall be a bar to any action against a public entity for injury which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant. If a public entity raises the issue of sovereign immunity prior to or after the commencement of discovery, the court shall suspend discovery, except any discovery necessary to decide the issue of sovereign immunity, and shall decide such issue on motion. The court's decision on such motion shall be a final judgment and shall be subject to interlocutory appeal.


(1) Any person claiming to have suffered an injury by a public entity or by an employee thereof while in the course of such employment, whether or not by a willful and wanton act or omission, shall file a written notice as provided in this section within one hundred eighty days after the date of the discovery of the injury, regardless of whether the person then knew all of the elements of a claim or of a cause of action for such injury. Compliance with the provisions of this section shall be a jurisdictional prerequisite to any action brought under the provisions of this article, and failure of compliance shall forever bar any such action.

(2) The notice shall contain the following:

(a) The name and address of the claimant and the name and address of his attorney, if any;

(b) A concise statement of the factual basis of the claim, including the date, time, place, and circumstances of the act, omission, or event complained of;

(c) The name and address of any public employee involved, if known;

d) A concise statement of the nature and the extent of the injury claimed to have been suffered;

(e) A statement of the amount of monetary damages that is being requested.

(3) If the claim is against the state or an employee thereof, the notice shall be filed with the attorney general. If the claim is against any other public entity or an employee thereof, the notice shall be filed with the governing body of the public entity or the
attorney representing the public entity. Such notice shall be effective upon mailing by registered or certified mail, return receipt requested, or upon personal service.

(4) When the claim is one for death by wrongful act or omission, the notice may be presented by the personal representative, surviving spouse, or next of kin of the deceased.

(5) Any action brought pursuant to this article shall be commenced within the time period provided for that type of action in articles 80 and 81 of title 13, C.R.S relating to limitation of actions, or it shall be forever barred; except that, if compliance with the provisions of subsection (6) of this section would otherwise result in the barring of an action, such time period shall be extended by the time period required for compliance with the provisions of subsection (6) of this section.

(6) No action brought pursuant to this article shall be commenced until after the claimant who has filed timely notice pursuant to subsection (1) of this section has received notice from the public entity that the public entity has denied the claim or until after ninety days has passed following the filing of the notice of claim required by this section, whichever occurs first.

24-10-110 - Defense of public employees – payment of judgments or settlements against public employees.

(1) A public entity shall be liable for:

(a) The costs of the defense of any of its public employees, whether such defense is assumed by the public entity or handled by the legal staff of the public entity or by other counsel, in the discretion of the public entity, where the claim against the public employee arises out of injuries sustained from an act or omission of such employee occurring during the performance of his duties and within the scope of his employment, except where such act or omission is willful and wanton;

(b) (I) The payment of all judgments and settlements of claims against any of its public employees where the claim against the public employee arises out of injuries sustained from an act or omission of such employee occurring during the performance of his duties and within the scope of his employment, except where such act or omission is willful and wanton or where sovereign immunity bars the action against the public entity, if the employee does not compromise or settle the claim without the consent of the public entity; and

(II) The payment of all judgments and settlements of claims against any of its public employees where the claim against the public employee arises out of injuries sustained from an act or omission of such employee occurring during the performance of his or her duties and within the scope of employment, except where such act or omission is willful and wanton, even though sovereign immunity would otherwise bar the action, when the public employee is operating an emergency vehicle within the provisions of section 42-4-
(2) and (3), C.R.S., if the employee does not compromise or settle the claim without the consent of the public entity.

(1.5) Where a claim against a public employee arises out of injuries sustained from an act or omission of such employee which occurred or is alleged in the complaint to have occurred during the performance of his duties and within the scope of his employment, the public entity shall be liable for the reasonable costs of the defense and reasonable attorney fees of its public employee unless:

(a) It is determined by a court that the injuries did not arise out of an act or omission of such employee occurring during the performance of his duties and within the scope of his employment or that the act or omission of such employee was willful and wanton. If it is so determined, the public entity may request and the court shall order such employee to reimburse the public entity for reasonable costs and reasonable attorney fees incurred in the defense of such employee; or

(b) The public employee compromises or settles the claim without the consent of the public entity.

(2) The provisions of subsection (1) of this section shall not apply where a public entity is not made a party defendant in an action and such public entity is not notified of the existence of such action in writing by the plaintiff or such employee within fifteen days after commencement of the action. In addition, the provisions of subsection (1) of this section shall not apply where such employee willfully and knowingly fails to notify the public entity of the incident or occurrence which led to the claim within a reasonable time after such incident or occurrence, if such incident or occurrence could reasonably have been expected to lead to a claim.

(3) Repealed.

(4) Where the public entity is made a codefendant with its public employee, it shall notify such employee in writing within fifteen days after the commencement of such action whether it will assume the defense of such employee. Where the public entity is not made a codefendant, it shall notify such employee whether it will assume such defense within fifteen days after receiving written notice from the public employee of the existence of such action.

(5) (a) In any action in which allegations are made that an act or omission of a public employee was willful and wanton, the specific factual basis of such allegations shall be stated in the complaint.

(b) Failure to plead the factual basis of an allegation that an act or omission of a public employee was willful and wanton shall result in dismissal of the claim for failure to state a claim upon which relief can be granted.
(c) In any action against a public employee in which exemplary damages are sought based on allegations that an act or omission of a public employee was willful and wanton, if the plaintiff does not substantially prevail on his claim that such act or omission was willful and wanton, the court shall award attorney fees against the plaintiff or the plaintiff's attorney or both and in favor of the public employee.

(6) The provisions of subsection (5) of this section are in addition to and not in lieu of the provisions of article 17 of title 13, C.R.S.

24-10-111 - Judgment against public entity or public employee – effect.

(1) Any judgment against a public entity shall constitute a complete bar to any action for injury by the claimant, by reason of the same subject matter, against any public employee whose act or omission gave rise to the claim.

(2) Any judgment against any public employee whose act or omission gave rise to the claim shall constitute a complete bar to any action for injury by the claimant, by reason of the same subject matter, against a public entity.

(3) Nothing contained in the provisions of this section shall be construed as preventing the joinder of any public entity or employee of such public entity in the same action.

24-10-112 - Compromise of claims – settlement of actions.

(1) (a) (I) A claim against the state may be compromised or settled for and on behalf of the state by the attorney general, with the concurrence of the head of the affected department, agency, board, commission, institution, hospital, college, university, or other instrumentality thereof, except as provided in part 15 of article 30 of this title.

(II) Repealed.

(b) Repealed.

(2) Claims against public entities, other than the state, may be compromised or settled by the governing body of the public entity or in such manner as the governing body may designate.

24-10-113 - Payment of judgments.

(1) A public entity or designated insurer shall pay any compromise, settlement, or final judgment in the manner provided in this section, and an action pursuant to the Colorado rules of civil procedure shall be an appropriate remedy to compel a public entity to perform an act required under this section.
(2) The state and the governing body of any other public entity shall pay, to the extent funds are available in the fiscal year in which it becomes final, any judgment out of any funds to the credit of the public entity that are available from any or all of the following:

(a) A self-insurance reserve fund;

(b) Funds that are unappropriated for any other purpose unless the use of such funds is restricted by law or contract to other purposes;

(c) Funds that are appropriated for the current fiscal year for the payment of such judgments and not previously encumbered.

(3) If a public entity is unable to pay a judgment during the fiscal year in which it becomes final because of lack of available funds, the public entity shall levy a tax, in a separate item to cover such judgment, sufficient to discharge such judgment in the next fiscal year or in the succeeding fiscal year if the budget of the public entity has been finally adopted for the fiscal year in which the judgment becomes final before such judgment becomes final; but in no event shall such annual levy for one or more judgments exceed a total of ten mills, exclusive of existing mill levies. The public entity shall continue to levy such tax, not to exceed a total annual levy of ten mills, exclusive of existing mill levies, but in no event less than ten mills if such judgment will not be discharged by a lesser levy, until such judgment is discharged. In the event that more than one judgment is unsatisfied and a ten-mill levy is insufficient to satisfy the judgments in one year, the proceeds of the ten-mill levy shall be prorated annually among the judgment creditors in the proportion that each outstanding judgment bears to the total judgments outstanding.

24-10-114 - Limitations on judgments.

(1) The maximum amount that may be recovered under this article in any single occurrence, whether from one or more public entities and public employees, shall be:

(a) For any injury to one person in any single occurrence, the sum of one hundred fifty thousand dollars;

(b) For an injury to two or more persons in any single occurrence, the sum of six hundred thousand dollars; except that, in such instance, no person may recover in excess of one hundred fifty thousand dollars.

(1.5) For purposes of subsection (1) of this section, an assignment or subrogation to recover damages paid or payable for an injury shall not be deemed to be a separate occurrence.

(2) The governing body of a public entity, by resolution, may increase any maximum amount set out in subsection (1) of this section that may be recovered from the public entity for the type of injury described in the resolution. The amount of the recovery that
may be had shall not exceed the amount set out in such resolution for the type of injury described therein. Any such increase may be reduced, increased, or repealed by the governing body by resolution. A resolution adopted pursuant to this subsection (2) shall apply only to injuries occurring subsequent to the adoption of such resolution.

(3) Nothing in this section shall be construed to permit the recovery of damages for types of actions authorized under part 2 of article 21 of title 13, C.R.S., in an amount in excess of the amounts specified in said article.

(4) (a) A public entity shall not be liable either directly or by indemnification for punitive or exemplary damages or for damages for outrageous conduct, except as otherwise determined by a public entity pursuant to section 24-10-118 (5).

(b) A railroad operating in interstate commerce that sells to a public entity, or allows the public entity to use, such railroad's property or tracks for the provision of public passenger rail service shall not be liable either directly or by indemnification for punitive or exemplary damages or for damages for outrageous conduct to any person for any accident or injury arising out of the operation and maintenance of the public passenger rail service by a public entity.

(5) Notwithstanding the maximum amounts that may be recovered from a public entity set forth in subsection (1) of this section, a judgment or judgments may be claimed and rendered against the state in excess of the maximum amounts only if the general assembly acting by bill authorizes payment of all or a portion of the judgment which exceeds the maximum amount. Any claimant may present proof of judgment to the general assembly and request payment of that portion of the judgment which exceeds the maximum amount. Any portion of a judgment approved for payment by the general assembly shall be paid from the general fund.

24-10-114.5 - Limitation on attorney fees in class action litigation.

If the plaintiffs prevail in any class action litigation brought against any public entity, the amount of attorney fees which the plaintiffs' attorney is entitled to receive out of any award to the plaintiffs shall be determined by the court; except that such amount shall not exceed two hundred fifty thousand dollars. Such limitation shall apply where the public entity pays the attorney fees directly to the plaintiffs' attorneys or where the public entity is required to pay the attorney fees indirectly through any program it administers by reducing the benefits or amounts due to the individual plaintiffs.

24.10.115 - Authority for public entities other than the state to obtain insurance.

(1) A public entity, other than the state, either by itself or in conjunction with any one or more public entities may:

(a) Insure against all or any part of its liability for an injury for which it might be liable under this article;
(b) Insure any public employee acting within the scope of his employment against all or any part of such liability for an injury for which he might be liable under this article;

(c) Insure against the expense of defending a claim for injury against the public entity or its employees, whether or not liability exists on such claim;

(d) Insure against all or part of its liability or the liability of a railroad for claims arising from the passenger rail operations of a public entity on property or tracks owned by, or purchased from, a railroad.

(2) The insurance authorized by subsection (1) of this section may be provided by:

(a) Self-insurance, which may be funded by appropriations to establish or maintain reserves for self-insurance purposes

(b) An insurance company authorized to do business in this state which meets all of the requirements of the division of insurance for that purpose;

(c) A combination of the methods of obtaining insurance authorized in paragraphs (a) and (b) of this subsection (2);


(3) A public entity, other than the state and other than a school district, may establish and maintain an insurance reserve fund for self-insurance purposes and may include in the annual tax levy of the public entity such amounts as are determined by its governing body to be necessary for the uses and purposes of the insurance reserve fund, subject to the limitations imposed by section 29-1-301, C.R.S., or such public entity may appropriate from any unexpended balance in the general fund such amounts as the governing body shall deem necessary for the purposes and uses of the insurance reserve fund, or both. A school district shall establish and maintain an insurance reserve fund in accordance with the provisions of section 22-45-103 (1) (e), C.R.S., for liability and property damage self-insurance purposes, including workers' compensation pursuant to section 8-44-204 (2), C.R.S., using moneys allocated thereto pursuant to the provisions of section 22-54-105 (2), C.R.S. The fund established pursuant to this subsection (3) shall be kept separate and apart from all other funds and shall be used only for the payment of administrative and legal expenses necessary for the operation of the fund and for the payment of claims against the public entity which have been settled or compromised or judgments rendered against the public entity for injury under the provisions of this article and for attorney fees and for the costs of defense of claims and to secure and pay for premiums on insurance as provided in this article.

(4) Policies written pursuant to this section and section 24-10-116 shall insure all of the risks and liabilities arising under this article, including costs of defense, unless the public
entity requests in writing and obtains lesser coverage, in which event the policy issued shall conspicuously itemize the risks and liabilities not covered.

(5) A self-insurance fund established by a public entity which is subject to section 29-1-108, C.R.S., shall not be construed to be unexpended funds for budgetary purposes and shall be accumulated and held over for use in subsequent years.

(6) Repealed.

(7) Policies written, self-insurance funds established, or risk management pools entered into by a public entity for the purpose of insuring a public entity as described in paragraph (d) of subsection (1) of this section shall maintain such levels of insurance as are sufficient to insure against the maximum liability permitted against a railroad or its indemnitior pursuant to 49 U.S.C. sec. 28103

24-10-118 - Actions against public employees – required and limitations.

(1) Any action against a public employee, whether brought pursuant to this article, section 29-5-111, C.R.S., the common law, or otherwise, which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant and which arises out of injuries sustained from an act or omission of such employee which occurred or is alleged in the complaint to have occurred during the performance of his duties and within the scope of his employment, unless the act or omission causing such injury was willful and wanton, shall be subject to the following requirements and limitations, regardless of whether or not such action against a public employee is one for which the public entity might be liable for costs of defense, attorney fees, or payment of judgment or settlement under section 24-10-110:

(a) Compliance with the provisions of section 24-10-109, in the forms and within the times provided by section 24-10-109, shall be a jurisdictional prerequisite to any such action against a public employee, and shall be required whether or not the injury sustained is alleged in the complaint to have occurred as the result of the willful and wanton act of such employee, and failure of compliance shall forever bar any such action against a public employee. Any such action against a public employee shall be commenced within the time period provided for that type of action in articles 80 and 81 of title 13, C.R.S., relating to limitation of actions, or it shall be forever barred.

(b) The maximum amounts that may be recovered in any such action against a public employee shall be as provided in section 24-10-114 (1), (2), and (3).

(c) A public employee shall not be liable for punitive or exemplary damages arising out of an act or omission occurring during the performance of his duties and within the scope of his employment, unless such act or omission was willful and wanton.
(d) The fact that a plaintiff sues both a public entity and a public employee shall not be deemed to increase any of the maximum amounts that may be recovered in any such action as provided in this section or in section 24-10-114.

(2) (a) A public employee shall be immune from liability in any claim for injury, whether brought pursuant to this article, section 29-5-111, C.R.S., the common law, or otherwise, which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant and which arises out of an act or omission of such employee occurring during the performance of his duties and within the scope of his employment unless the act or omission causing such injury was willful and wanton; except that no such immunity may be asserted in an action for injuries resulting from the circumstances specified in section 24-10-106 (1).

(b) Any member of any state board, commission, or other advisory body appointed pursuant to statute, executive order, or otherwise, and any other person acting as a consultant or witness before any such body, shall be immune from liability in any civil action brought against said person for acts occurring while the person was acting as such a member, consultant, or witness, if such person was acting in good faith within the scope of such person's respective capacity, makes a reasonable effort to obtain the facts of the matter as to which action was taken, and acts in the reasonable belief that the action taken by such person was warranted by the facts.

(2.5) If a public employee raises the issue of sovereign immunity prior to or after the commencement of discovery, the court shall suspend discovery; except that any discovery necessary to decide the issue of sovereign immunity shall be allowed to proceed, and the court shall decide such issue on motion. The court's decision on such motion shall be a final judgment and shall be subject to interlocutory appeal.

(3) Nothing in this section shall be construed to allow any action which lies in tort or could lie in tort regardless of whether that may be the type of action or the form or relief chosen by a claimant to be brought against a public employee except in compliance with the requirements of this article.

(4) The immunities provided for in this article shall be in addition to any common-law immunity applicable to a public employee.

(5) Notwithstanding any provision of this article to the contrary, a public entity may, if it determines by resolution adopted at an open public meeting by the governing body of the public entity that it is in the public interest to do so, defend a public employee against a claim for punitive damages or pay or settle any punitive damage claim against a public employee.

24-10-119 - Applicability of article to claims under federal law.
The provisions of this article shall apply to any action against a public entity or a public employee in any court of this state having jurisdiction over any claim brought pursuant to any federal law, if such action lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant.

24-10-120 - Severability.

If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.