

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

LR No.: 0885-02
Bill No.: SB 220
Subject: Transportation: Sovereign Immunity
Type: Original
Date: February 11, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Road	\$833,333	\$1,000,000	\$1,000,000
Conservation	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	\$833,333 to Unknown	\$1,000,000 to Unknown	\$1,000,000 to Unknown

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Office of Attorney General (AGO)** assumes that there could be potential cost savings in that it establishes sovereign immunity for certain compact organizations. AGO officials assumes that any cost savings would be less than \$100,000.

Officials of the **Missouri Department of Transportation (MoDOT)** stated that this proposal will have a positive fiscal impact on MHTC/MoDOT. In the case of Cottey v. Schmitter and State Highway and Transportation Commission of Missouri, 24 S.W. 3d 126 (Mo. App. W.D. 2000), the court held that the sovereign immunity cap established in section 637.610, RSMo, did not apply to direct claims against Missouri Department of Transportation (MoDOT) employees for negligent operation of vehicles, and that a plaintiff could, in effect, recover unlimited damages from the State Legal Expense Fund (SLEF), section 105.711, et seq., RSMo. Section 105.716, RSMo, requires the Missouri Highways and Transportation Commission (MHTC) to reimburse SLEF for all amounts paid by the SLEF on behalf of MHTC or MoDOT employees. The practical effect of the Cottey decision is that there are no sovereign immunity cap limitations on claims against state employees.

ASSUMPTION (continued)

Officials assume "by providing that a remedy against a public entity is exclusive of any action against its public employees, this would eliminate the dual recoveries currently allowed under state law as interpreted in the above-mentioned Cottey decision. By limiting plaintiffs options to recover unlimited damages against MHTC/MoDOT employees, **this legislation will have a positive fiscal impact to MHTC/MoDOT of approximately \$1 million annually**".

Officials of the **Missouri Department of Conservation** stated this proposal could have a positive impact on MDC funds due to limitations on suits against public agencies. The exact amount of impact is unknown.

Officials of the **Office of Administration - Deputy Commissioner, Budget and Planning Division, and Purchasing and Management Division**, assume no fiscal impact to their divisions.

Officials of the **Department of Health and Senior Services** assume no fiscal impact

Officials of the **Department of Labor and Industrial Relations** assume no fiscal impact.

Officials of the **Kansas City Area Transportation Authority (KCATA)** stated that in case of serious, catastrophic accident this proposal would limit fiscal impact to KCATA and the State of Missouri.

St. Louis Metro officials did not respond.

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<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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CONSERVATION FUND

<u>Savings</u> to Conservation Fund from limiting suits	Unknown	Unknown	Unknown
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ROAD FUND

<u>Savings</u> to State Road Fund from limiting suits	<u>\$833,333</u>	<u>\$1,000,000</u>	<u>\$1,000,000</u>
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ESTIMATED NET EFFECT TO OTHER STATE FUNDS	<u>\$833,333 to Unknown</u>	<u>\$1,000,000 to Unknown</u>	<u>\$1,000,000 to Unknown</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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LOCAL GOVERNMENT

<u>Savings</u> to certain local government limiting damages in suits	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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ESTIMATED NET EFFECT TO LOCAL GOVERNMENT	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This act restores sovereign immunity to Bi-State Metropolitan Development District (Metro) and the Kansas City Area Transportation District Authority (KCATA). In addition, this act provides that the remedy against a public entity under the sovereign immunity statutes for injuries, death or property damage arising from negligent acts or omissions of its public employees is exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee or the employee's estate. Any other civil action relating to the same subject matter against the civil employee is precluded without regard to when the act or omission occurred.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Office of Administration
Missouri Department of Transportation
Department of Labor and Industrial Relations
Missouri Department of Conservation
Kansas City Area Transportation Authority



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Director
February 11, 2005