

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0047-02
Bill No.: SB 78
Subject: Office of Administration; Liability; Political Subdivisions; Public Officers; State Departments; State Employees
Type: Original
Date: March 5, 2007

Bill Summary: The proposal modifies provisions relating to liability of tort claims against the state or its public entities relating to the operation of motor vehicles by employees or the dangerous condition of property.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	More than \$100,000	More than \$100,000	More than \$100,000
Total Estimated Net Effect on General Revenue Fund	More than \$100,000	More than \$100,000	More than \$100,000

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
State Legal Expense	\$0	\$0	\$0
Road	More than \$100,000	More than \$100,000	More than \$100,000
Conservation	More than \$100,000	More than \$100,000	More than \$100,000
Total Estimated Net Effect on Other State Funds	More than \$100,000	More than \$100,000	More than \$100,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on FTE	0	0	0

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	More than \$100,000	More than \$100,000	More than \$100,000

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Information Technology Services Department, – Administrative Hearing Commission, and the Department of Labor and Industrial Relations** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of the Attorney General (AGO)** assume any potential costs arising from this proposal can be absorbed within existing resources. Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews, the AGO will need to request additional staff to handle the increase in workload.

Officials from the **Office of Administration – General Services Division (COA)** assume the state legal expense fund, pursuant to Section 105.711 RSMo, provides for the payment of any claim or final judgment against the state pursuant to Section 536.600. The fund also extends coverage to agents, officers and employees of the state for conduct arising out of and performed in connection with his/her official duties with limitations to economic damages to any one claimant and up to \$350,000 for noneconomic damages. The state legal expense fund shall be the exclusive remedy.

COA assumes the proposed changes would allow for a reduction to the state legal expense fund payment made in accordance with Section 536.600 by any payment that has been made by a public entity. Potential savings cannot be determined at this time by COA.

COA has reflected the savings to the General Revenue fund, as general revenue funds the state legal expense fund.

Oversight assumes the savings to the general revenue fund could exceed \$100,000 per fiscal year.

ASSUMPTION (continued)

Officials from the **Department of Transportation (MoDOT)** assume Section 537.610.3 provides that the liability caps in section 537.610.2 shall also apply to any agency, officer, or employee of the state or its public entities for claims arising out of the operation of a motor vehicle operated within the course of employment or for claims arising out of a dangerous condition of property, which the employee allegedly caused or contributed to cause. These liability caps would have a positive unknown fiscal impact (expecting to exceed \$100,000). MoDOT would no longer pay unlimited damages for an employee sued in a tort claim. MoDOT is required to transfer money to the State Legal Expense Fund (SLEF) to pay for tort claims against MoDOT employees.

Section 537.610.4 provides that the maximum amount recoverable against the state, its public entities, or any agent, officer, or employee shall be reduced by any amount paid towards the claim by the state, its public entities, or any agent, officer, or employee or any person acting on their behalf. As written, this legislation appears to allow for both a judgment against MoDOT and against an employee to be offset by any money paid by the other, resulting in the public employer and the public employee's recoveries offsetting each other. The offset of recoverable amounts would likely have a positive unknown fiscal impact on MHTC/MoDOT. MoDOT expects the positive impact would exceed \$100,000.

Officials from the **Department of Conservation (MDC)** assume the proposal could have a positive impact on MDC funds by capping the financial liability for tort claims beyond the current protections. The exact amount of impact is unknown.

Oversight assumes the savings to the conservation fund could exceed \$100,000 per fiscal year.

Officials from the **City of Centralia** assume the proposal would result in an unknown effect on insurance premiums, which would likely be a cost of less than \$500 per year.

Officials from **St. Louis County** assume the proposal would result in a potential savings of money in those cases where employees are immune from liability. The proposal would give vicarious immunity to the county, contrary to a recent court opinion disclaiming such vicarious immunity.

ASSUMPTION (continued)

Officials from the **City of Kansas City (CKC)** assume CKC will realize a savings as a result of the proposal. The amount is unable to be determined as it depends on the number and types of claims filed against CKC during the fiscal year. Based on averages, CKC expects to realize an annual savings of at least \$700,000. This savings would result from the provision making CKC's liability for operation of a motor vehicle vicarious to the liability of the vehicle's operator.

Oversight assumes political subdivisions could experience a savings as a result of the proposal. Oversight assumes the statewide savings to political subdivisions could exceed \$100,000 per fiscal year.

Oversight sent the request for fiscal impact to all cities and counties who receive electronic requests from Oversight. No other cities or counties responded to Oversight's request.

<u>FISCAL IMPACT - State Government</u>	FY 2008	FY 2009	FY 2010
	(10 Mo.)		
GENERAL REVENUE FUND			
<u>Savings</u> – Office of Administration			
Reduced transfers out to State Legal Expense Fund			
	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2008 (10 Mo.)	FY 2009	FY 2010
STATE LEGAL EXPENSE FUND			
<u>Savings</u> – Office of Administration Reduced liability	More than \$100,000	More than \$100,000	More than \$100,000
<u>Losses</u> – Office of Administration Reduced transfers in from General Revenue Fund	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON STATE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
ROAD FUND			
<u>Savings</u> – Department of Transportation Reduced liability	<u>More than \$100,000</u>	<u>More than \$100,000</u>	<u>More than \$100,000</u>
ESTIMATED NET EFFECT ON ROAD FUND	<u>More than \$100,000</u>	<u>More than \$100,000</u>	<u>More than \$100,000</u>
CONSERVATION FUND			
<u>Savings</u> – Department of Conservation Reduced liability	<u>More than \$100,000</u>	<u>More than \$100,000</u>	<u>More than \$100,000</u>
ESTIMATED NET EFFECT ON CONSERVATION FUND	<u>More than \$100,000</u>	<u>More than \$100,000</u>	<u>More than \$100,000</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
POLITICAL SUBDIVISIONS			
<u>Savings – Cities and Counties</u> Reduced liability	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>	<u>More than</u> <u>\$100,000</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

The proposed legislation provides that the liability of the state or its public entities and any agent, officer, or employee that arises from the operation of a motor vehicle, or from causing or contributing to cause a dangerous condition of property, shall be limited to two million dollars for a single occurrence, and limited to no more than three hundred thousand dollars for any one person for a single occurrence. The maximum allowable recovery for these types of claims shall also be reduced by any amount paid towards the claim by the state, its entities, or anyone acting on their behalf.

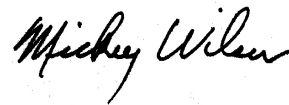
The proposal also provides that the state or its public entities are vicariously liable to the operator of the motor vehicle, and if the operator is found to be immune from liability, the state or its public entities shall also have no liability.

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 the Attorney General
Office of Administration
– Information Technology Services Division
– General Services Division
– Administrative Hearing Commission
Office of State Courts Administrator
Department of Transportation
Department of Labor and Industrial Relations
Department of Conservation
City of Centralia
St. Louis County
City of Kansas City

Mickey Wilson, CPA

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Director
March 5, 2007