

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5768-02  
Bill No.: SB 895  
Subject: Liability; Civil Procedure; Courts; Judges; Attorneys  
Type: Original  
Date: February 9, 2018

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Bill Summary: This proposal modifies the amount of interest that can be collected on a judgment balance in civil actions.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
State Legal Expense Fund	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials at the **Office of Administration’s Division of General Services** assume this legislation could reduce costs for the Legal Expense Fund because it reduces the interest rate on judgments. However, the actual reduction is unknown, because it would depend on the number of judgments against the State for which interest was due.

Officials at the **Office of the State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

**Oversight** inquired of OSCA further regarding the reduction in the interest rate on judgements. OSCA states that it is up to the party to collect the judgement and interest that is ordered by the court.

In response to similar legislation from this year, HB 1864, officials at the **Office of the Attorney General (AGO)** assumed that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

**Oversight** notes the State Legal Expense Fund is used to pay liability claims against the state, its officers, or employees and related defense costs and to purchase certain insurance when deemed necessary. The Fund received an estimated appropriation of \$6,757,435 last year in order to make prompt judgement payments and not owe interest payments. Oversight assumes that lowering the interest rate on judgements from 9% to 5% could reduce the amount the State Legal Expense Fund may need to pay out in the future. Oversight will show the savings as \$0 to Unknown from the reduction of the interest payments.

<u>FISCAL IMPACT - State Government</u>	FY 2019	FY 2020	FY 2021
	(10 Mo.)		
<b>STATE LEGAL EXPENSE FUND</b>			
<u>Savings</u> - reduction in the interest payments owed	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
<b>ESTIMATED NET EFFECT ON THE STATE LEGAL EXPENSE FUND</b>	<b><u>\$0 or Unknown</u></b>	<b><u>\$0 or Unknown</u></b>	<b><u>\$0 or Unknown</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This act modifies the amount of interest that can be collected on a judgment balance in a civil action. Currently, for judgments in non-tort actions where a contract provides that the interest rate is more than nine percent, the interest shall be the amount specified in the contract. This act changes such interest rate to more than five percent. In all other non-tort actions, the interest shall be the lesser of five percent or the Federal Funds Rate, plus two percent, rather than nine percent.

In tort actions the interest shall also be the Federal Funds Rate, plus two percent, rather than five percent. In no case shall the annual interest rate exceed five percent. In tort actions prejudgment interest "shall," rather than "should," have an interest equal to the Federal Funds Rate, plus two percent, and not exceed five percent.

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

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SOURCES OF INFORMATION

Office of Administration  
Division of General Services  
Office of the State Courts Administrator  
Office of the Attorney General

Ross Strope

A handwritten signature in black ink, appearing to read "Ross Strope", with a stylized flourish at the end.

Acting Director  
February 9, 2018