

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1535S.01I
 Bill No.: SB 331
 Subject: Civil Procedure; Credit And Bankruptcy; Liability
 Type: Original
 Date: March 4, 2021

Bill Summary: This proposal establishes disclosure procedures for a claimant in an action for damages due to asbestos exposure.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Tort Victims Compensation Fund*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Oversight assumes the reduction in punitive damages impacting the Tort Victims Compensation Fund would not reach the \$250,000 threshold.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Attorney General's Office (AGO)** assume that if this legislation becomes law, it could be more difficult for claimants to receive punitive damages, thus the total amount of punitive damages awarded in Missouri could decrease. Since the Tort Victims' Compensation Fund is funded by liens on punitive damages, the AGO assumes that a decrease in punitive damages awarded would decrease the amount of funds generated through these liens for the Tort Victims' Compensation Fund.

It is not possible to know the extent to which punitive damages awarded to claimants will decrease under this proposal, therefore, the AGO assumes it will have an unknown negative fiscal impact on the Tort Victims' Compensation Fund.

Oversight notes that under §537.675.3, 50% of the punitive damage state judgments, after deducting attorney's fees and expenses, shall go into the Tort Victims' Compensation Fund (0622). Information provided by the Attorney General shows that between July, 2014, and December, 2019, the Tort Victims Compensation Fund received \$20,043,083. During that period, average annual payments into the Tort Victims Compensation Fund (TVCF) were \$3,644,197.

The AGO does not track the types of claims payed into the TVCF, so this number is likely an overestimate, as it includes claims not affected by this proposal. Oversight notes on average from 2015 to 2019, the court heard 270 cases regarding asbestos tort actions according to the table below. Therefore, **Oversight** will show a \$0 to (unknown) fiscal impact to the TVCF.

Year	Asbestos Cases
2015	268
2016	303
2017	353
2018	161
2019	267
Average	270

Tables 27 & 33 – OSCA's Statistical Annual Report Supplement

Officials from the **Office of Administration - Budget and Planning**, the **Department of Commerce and Insurance**, the **Department of Labor and Industrial Relations**, the **Department of Social Services** and the **Office of the State Courts Administrator** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other counties, circuit clerks and county public administrators were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
TORT VICTIMS COMPENSATION FUND			
Loss – AGO – potential reduction from payouts of punitive damages to TVCF	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON TORT VICTIMS COMPENSATION FUND	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small businesses involved in asbestos-related actions could be impacted as a result of this proposal.

FISCAL DESCRIPTION

This act establishes disclosure procedures for a claimant in a civil action for damages due to asbestos exposure. This act applies to all asbestos actions, as defined in the act, filed on or after the effective date and to pending asbestos actions in which a trial has not commenced as of such date.

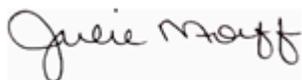
Within 30 days of filing a civil action for damages due to health effects that resulted from the exposure to asbestos, or within 30 days of the effective date of this act for currently pending asbestos actions, the claimant shall file a sworn information form, which contains certain information detailed in the act, specifying the evidence that provides the basis for each claim against each defendant. After receiving additional information, the claimant shall supplement the required information within 30 days.

This act provides that the court on motion by a defendant shall dismiss a claimant's asbestos action without prejudice as to any defendant whose product or premises is not identified in the required disclosures. Additionally, upon a motion by a defendant, the court shall dismiss an asbestos action without prejudice as to all defendants if the claimant fails to comply with the requirements of this act.

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

Attorney General's Office
Office of Administration - Budget and Planning
Department of Commerce and Insurance
Department of Labor and Industrial Relations
Department of Social Services
Office of the State Courts Administrator



Julie Morff
Director
March 4, 2021



Ross Strobe
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March 4, 2021