

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO. 3447-01
BILL NO. SB 761
SUBJECT: Civil Procedure; Liability; Courts
TYPE: Original
DATE: January 31, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Legal Services for Low-Income People Fund	Unknown	Unknown	Unknown
Tort Victims' Compensation Fund	(Unknown to \$253,822)	(Unknown to \$261,990)	(Unknown to \$273,204)
Total Estimated Net Effect on All State Funds	(\$253,822)	(\$261,990)	(\$273,204)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on All Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Attorney General, Office of State Courts Administrator, Office of State Treasurer, Department of Social Services, Office of State Public Defender, Office of Prosecution Services, Department of Transportation,** and the **Office of Administration** assume the proposed legislation would have no fiscal impact on their agencies.

In response to similar legislation, officials from the **Department of Revenue** assumed the proposed legislation would have no fiscal impact on their agency.

Officials from the **Department of Labor and Industrial Relations - Division of Workers' Compensation (DOL)** assume the proposed legislation establishes responsibility in the Division of Workers' Compensation to administer and adjudicate claims of uncompensated tort victims against the Tort Victims' Compensation Fund.

The DOL will establish and maintain a Tort Victims' Compensation Unit to receive, process and make awards for uncompensated tort victims. The DOL will also establish and maintain a procedure to adjudicate these claims.

The impact of this program is very difficult to assess. In FY 98, the Office of the State Courts Administrator reported that 20,282 tort cases were disposed of. Over the last three fiscal years the average number of tort cases disposed of is 19,264 cases. This includes settlements, dismissals, defendants' verdicts, plaintiffs' verdicts, and default judgments. It is impossible to determine how many cases will result in a verdict for the plaintiff that are uncollectible. This type of data is not collected. It is also impossible to determine how many uninsured motorist claims will be filed as tort cases because of accessibility to these funds. Attempts to obtain this type of information were made with the Missouri Association of Trial Attorneys and the Missouri Department of Insurance.

Funding for this program on an ongoing basis is questionable. The statute provides for 75% of punitive damages awards in final judgments to be paid to the DOL into the Tort Victims' Compensation Fund. Currently, there are moneys over seven million dollars (\$7,000,000) in the Fund. This funding came from two unusual cases in Kansas City where the plaintiffs and defendants absolutely refused to settle the claim. This information is from the Attorney General's office. In most cases, the plaintiff and defendant settle any punitive damages, even after a jury award. This usually happens while the case is on appeal. Because the case is settled, there would be no final judgment and no payment to the Fund.

ASSUMPTION (continued)

Since almost all cases involving tort claims involve claimant attorneys, it is assumed the potential for claims in cases of unsatisfied plaintiffs' judgements will be very high. For the purpose of this fiscal note, the DOL assumes 10% of all cases disposed of will result in claims against the fund. Based on information previously cited, this is an average of 1,926 claims filed per year (19,264 x 10%). This average is very close to the number of claims filed with the DOL Crime Victims' Compensation program each year. In FY 96 a total of 1,652 claims were disposed of, in FY 97 a total of 2,206 claims were disposed of, in FY 98 a total of 1,688 claims were disposed of by the Crime Victims' Compensation program.

DOL assumes the parameters of the Tort Victims' Compensation program in verifying medical, funeral and legal bills, verifying court action and other requirements to establish the validity of a claim under this proposal are also very similar to the manner in which crime victim's compensation claims are handled. For that reason, DOL assumed staffing needs similar to the Crime Victims' Compensation program would be needed to handle the claims process. This program must also have one legal counsel to ensure compliance with the statutory provisions and the myriad of legal issues involved in tort claims to ensure proper funding.

<u>FISCAL IMPACT - State Government</u>	FY 2001	FY 2002	FY 2003
	(10 Mo.)		
LEGAL SERVICES FOR LOW-INCOME PEOPLE FUND			
Punitive damage awards	Unknown	Unknown	Unknown
TORT VICTIMS' COMPENSATION FUND			
Punitive damage awards	(Unknown)	(Unknown)	(Unknown)
<u>Costs - Labor and Industrial Relations</u>			
Personal Service	(\$153,488)	(\$192,151)	(\$200,483)
Fringe Benefits	(47,198)	(59,086)	(61,648)
Equipment and Expense	<u>(53,136)</u>	<u>(10,753)</u>	<u>(11,073)</u>
Total costs - DOL	(\$253,822)	(\$261,990)	(\$273,204)
ESTIMATED NET EFFECT ON STATE FUNDS	<u>(\$253,822)</u>	<u>(\$261,990)</u>	<u>(\$273,204)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
	0	0	0

FISCAL IMPACT - Small Business

No direct fiscal impact on small businesses would be expected due to this proposal.

DESCRIPTION

The proposed legislation creates the Legal Services for Low-Income People Fund which receives 25% of all payments to the Tort Victims' Compensation Fund. The treasurer is authorized to distribute money from the Legal Services for Low-Income People Fund to legal services organizations in Missouri that receive federal Legal Services Corporation funding. Funds must be allocated according to the most recent official census data relating to the location of Missouri residents living at or below the poverty level.

In addition, the proposal authorizes the Division of Workers' Compensation to make awards to uncompensated victims from 75% of payments to the fund. Prevailing plaintiffs in civil tort cases who are unable to collect or enforce judgments are considered uncompensated tort victims under the proposal's provisions. Awards may not be greater than the amount determined by the jury for any plaintiff found to be contributorily or comparatively negligent. No award from the fund may exceed \$300,000. The proposal specifies procedures for filing claims and appealing determinations. If there are insufficient funds for the division to pay all claims, the claims must be paid on a pro rata basis.

The proposal also modifies procedures for the Attorney General to collect 50% of all punitive damage awards. Cases resolved by arbitration, mediation, or compromise settlement as well as attorneys' fees and expenses are not subject to the collection procedures.

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

Department of Revenue
Office of State Courts Administrator
Office of State Treasurer
Department of Social Services

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SOURCES OF INFORMATION (continued)

Office of State Public Defender
Office of Prosecution Services
Office of Administration
Department of Labor and Industrial Relations - Division of Workers' Compensation
Office of Attorney General
Department of Transportation



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Director
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