

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

**L.R. NO.** 4335-02  
**BILL NO.** SB 950  
**SUBJECT:** Courts: Sovereign Immunity  
**TYPE:** Original  
**DATE:** February 15, 2000

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON STATE FUNDS</b>                          |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2001    | FY 2002    | FY 2003    |
| General Revenue   | (Unknown)  | (Unknown)  | (Unknown)  |
| Conservation<br>Commission Fund                                     | (Unknown)  | (Unknown)  | (Unknown)  |
| Dedicated Funds   | (Unknown)  | (Unknown)  | (Unknown)  |
| Highway Fund  | (Unknown)  | (Unknown)  | (Unknown)  |
| <b>Total Estimated<br/>Net Effect on <u>All</u><br/>State Funds</b> | (Unknown)* | (Unknown)* | (Unknown)* |

\* Unknown fiscal impact (cost or loss) - expected to exceed \$100,000 in any given year.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                          |           |           |           |
|---|-----------|-----------|-----------|
| FUND AFFECTED   | FY 2001   | FY 2002   | FY 2003   |
| DNR Federal Funds   | (Unknown) | (Unknown) | (Unknown) |
| <b>Total Estimated<br/>Net Effect on <u>All</u><br/>Federal Funds</b> | (Unknown) | (Unknown) | (Unknown) |

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |                       |                       |                       |
|--|-----------------------|-----------------------|-----------------------|
| FUND AFFECTED                              | FY 2001               | FY 2002               | FY 2003               |
| <b>Local Government</b>                    | (Exceeds \$1,000,000) | (Exceeds \$1,000,000) | (Exceeds \$1,000,000) |

Numbers within parentheses: ( ) indicate costs or losses

This fiscal note contains 5 pages.

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**FISCAL ANALYSIS**

ASSUMPTION

Officials from the **Missouri Department of Conservation (MDC)** assume the proposed legislation would have a significant fiscal impact on their budget. MDC officials assume this proposal would make their agency responsible for proprietary functions such as boat rentals. MDC did not specify an exact fiscal impact. However, in response to similar proposals, they have stated that it would be reasonable to expect their costs to exceed \$100,000 annually.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would not appreciably impact the budget of the judiciary.

Officials from the **Department of Highways and Transportation (DHT)** assume the proposed legislation will most likely subject DHT to additional claims. They stated that it is impossible to estimate the number of additional claims and the amount to which the DHT may be liable as a result of such claims; however, the amount could be substantial and could exceed \$100,000 per year.

Officials from the **Office of Administration - Division of Risk Management (COA)** assume the proposed legislation would have a fiscal impact on their budget. They could not specify an exact fiscal impact but assume it would be reasonable to expect costs to exceed \$100,000 per year. Due to the nature of these types of claims, the state could experience several years of low losses and then be hit with a significantly costly case.

Officials from the **Office of the Attorney General (AGO)** assume the proposal legislation would have a significant fiscal impact on their agency. AGO has stated that the amount of the costs are unknown, as they will be dependent on the amount of litigation resulting from this proposal.

Officials from the **Department of Natural Resources (DNR)** assume the proposed legislation would result in increased litigation. The costs associated with this proposal would be associated with the increased litigation. DNR is unable to determine the costs involved; however, they are expected to exceed \$100,000 annually.

Officials from the **City of Kansas City (CKC)** and the **City of St. Louis - Budget Division (STL)** did not respond to our fiscal impact request.

ASSUMPTION (continued)

**Oversight** assumes the proposed legislation would have a significant fiscal impact on the City of Kansas City, the City of St. Louis, and all other cities. In response to a similar proposal last session, both CKC and STL reported a cost of over \$1,000,000 annually. Significant costs would result for all municipalities, as they would no longer be granted sovereign immunity for proprietary functions.

Officials from the **Department of Public Safety (Missouri State Highway Patrol, Capitol Police, Division of Fire Safety, State Emergency Management Agency, Missouri State Water Patrol, Division of Liquor Control, and Division of Highway Safety)** assume this proposal would have no fiscal impact on their agency.

| <u>FISCAL IMPACT - State Government</u> | FY 2001 | FY 2002 | FY 2003 |
|---|---------|---------|---------|
|---|---------|---------|---------|

(10 Mo.)

**GENERAL REVENUE FUND**

Costs - Office of Attorney General (AGO)

Total fiscal impact is unknown, but costs could exceed \$100,000 annually.

**CONSERVATION COMMISSION FUND**

Total fiscal impact is unknown, but costs could exceed \$100,000 annually.

**HIGHWAY FUND**

Total fiscal impact is unknown, but costs could exceed \$100,000 annually.

**DEDICATED FUNDS**

Costs - Department of Natural Resources

Total fiscal impact is unknown, but costs are expected to exceed \$100,000 annually. This would be entirely dependent on the number of claims filed and the award of judgments resulting.

**FEDERAL FUNDS**

Costs - Department of Natural Resources

Total fiscal impact is unknown, but costs are expected to exceed \$100,000 annually. This would be entirely dependent on the number of claims filed and the award of judgments resulting.

| <u>FISCAL IMPACT - Local Government</u> | FY 2001 | FY 2002 | FY 2003 |
|---|---------|---------|---------|
|---|---------|---------|---------|

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(10 Mo.)

**KANSAS CITY GENERAL REVENUE FUND**

Total fiscal impact is unknown, but costs would likely exceed \$1,000,000 annually. This would be entirely dependent on the number of claims filed and the award of judgments resulting.

**CITY OF ST. LOUIS GENERAL REVENUE FUND**

Total fiscal impact is unknown, , but costs would likely exceed \$1,000,000 annually. This would be entirely dependent on the number of claims filed and the award of judgments resulting.

DESCRIPTION

The proposed legislation would clarify the sovereign immunity law with regard to proprietary functions. The proposal would state that a proprietary function, which means: 1) an activity in competition with private enterprise; or 2) an activity engaged in for a special benefit or profit, is not entitled to sovereign immunity protection, the decision of *Wollard v. City of Kansas City* notwithstanding. For the purpose of determining whether an activity is in competition or for profit, the activity shall be viewed in light of the economic and competitive conditions existing at the time the injury occurred. The proposed legislation also clarifies the "dangerous condition" exception to sovereign immunity, stating that it is not limited to a defect on the property. A dangerous condition maintained may also give rise to 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

KAF:LR:OD:005 (9-94)

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Office of State Courts Administrator  
Office of the Attorney General  
Missouri Department of Conservation  
Department of Natural Resources  
Department of Highways and Transportation  
Office of Administration - Division of Risk Management  
Department of Public Safety - Missouri State Highway Patrol; Capitol Police; Division of Fire  
Safety; State Emergency Management Agency; Missouri State Water Patrol; Division of  
Liquor Control; and Division of Highway Safety

**NOT RESPONDING: City of Kansas City - Budget Division; City of St. Louis - Budget  
Division.**

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized and cursive.

Jeanne Jarrett, CPA  
Director  
February 15, 2000