

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4624-02
Bill No.: SB 1324
Subject: Tort Reform: Sovereign or Official Immunity
Type: Original
Date: March 8,, 2004

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2005 | FY 2006 | FY 2007 |
| General Revenue | Unknown | Unknown | Unknown |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | Unknown | Unknown | Unknown |

| ESTIMATED NET EFFECT ON STATE FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2005 | FY 2006 | FY 2007 |
| Highway | Unknown | Unknown | Unknown |
| Conservation | Unknown | Unknown | Unknown |
| Total Estimated Net Effect on <u>All</u> State Funds | Unknown | Unknown | Unknown |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2005 | FY 2006 | FY 2007 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|-------------------------------------|----------------|----------------|----------------|
| FUND AFFECTED | FY 2005 | FY 2006 | FY 2007 |
| Local Government | Unknown | Unknown | Unknown |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Attorney General**, assume any fiscal impact arising from this proposal could be absorbed with existing resources.

Officials of the **Department of Revenue** assume no fiscal impact.

Officials of the **Department of Public Safety – Missouri State Highway Patrol** assume the proposed legislation would have no fiscal impact..

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

Officials from the **Department of Transportation (MoDOT)** assume the proposal would result in an unknown positive impact to Highway Funds. The elimination of joint and several liability, elimination of the 1 percent comparative fault limitation for failure to wear a seat belt, and the exclusive remedy provision could be advantageous to the Missouri Highways and Transportation Commission (MHTC) and MoDOT. However, an accurate estimate would be impossible to

ASSUMPTION (continued)

determine as the benefit of these revisions would depend upon the number of cases impacted, the potential liability of MHTC in such cases, and other related factors.

Officials from the **Department of Conservation (MDC)** assume the proposal could have an unknown impact on MDC funds.

Officials from the **Office of Administration – General Services Division, Risk Management** assume, in light of Cottey v. Schmitter, et al, MLW No. 26286, this proposed legislation has the potential for savings to the state. Risk Management is aware of one case that would have been impacted by the proposed changes. However, the Risk Management cannot determine the amount of the savings at this time.

Officials of the **Department of Insurance** assume no fiscal impact.

Officials of the **Department of Natural Resources** assume no fiscal impact.

Oversight assumes local political subdivisions could experience a savings due to the provisions of the proposed legislation that eliminate joint and several liability. Oversight has reflected this potential savings as Unknown.

| <u>FISCAL IMPACT - State Government</u> | FY 2005 (10 Mo.) | FY 2006 | FY 2007 |
|--|-----------------------|-----------------------|-----------------------|
| GENERAL REVENUE FUND | | | |
| <u>Savings</u> – Office of Administration Elimination of joint and several liability | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| HIGHWAY FUNDS | | | |
| <u>Savings</u> – Department of Transportation Elimination of joint and several liability | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |

**ESTIMATED NET EFFECT ON
 HIGHWAY FUNDS**

Unknown

Unknown

Unknown

CONSERVATION FUND

Savings – Department of Conservation
 Elimination of joint and several
 liability

Unknown

Unknown

Unknown

**ESTIMATED NET EFFECT ON
 CONSERVATION FUND**

Unknown

Unknown

Unknown

FISCAL IMPACT - Local Government

FY 2005
 (10 Mo.)

FY 2006

FY 2007

POLITICAL SUBDIVISIONS

Savings – Elimination of joint and
 several liability

Unknown

Unknown

Unknown

**ESTIMATED NET EFFECT ON
 POLITICAL SUBDIVISIONS**

Unknown

Unknown

Unknown

FISCAL IMPACT - Small Business

The proposed legislation could result in some small savings to small business.

DESCRIPTION

This act repeals the sovereign immunity waiver imposed on multi-state compact agencies for their proprietary functions. Under the current law, such agencies enjoy no sovereign or governmental immunity for their proprietary functions. This act also includes the provisions found in SB 957 (2004). Under this act, a claimant's failure to wear a seat belt shall be admissible as evidence on the issue of comparative negligence. Under the current law, failure to wear a seat belt is not considered evidence of comparative negligence.

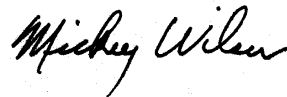
DESCRIPTION continued

This act modifies the law regarding sovereign immunity with respect to public employees. Under this act, the remedy against a public entity under the sovereign immunity statutes for injuries, death or property damage arising from negligent acts or omissions of its public employees is exclusive or any other civil action or proceeding for money damages against the employee or the employee's estate. Any other civil action relating to the same subject matter against the civil employee is precluded without regard to when the act or omission occurred. The doctrine of joint and several liability shall not apply against any public entity or public employee under any cause of action arising under sovereign immunity principles.

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 Attorney General
Office of Administration
Office of State Courts Administrator
Department of Revenue
Department of Transportation
Department of Public Safety
 – Missouri State Highway Patrol
Department of Conservation
Department of Natural Resources
Department of Insurance



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Director
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