

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 6, 2007

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB1652 by Ellis (Relating to the waiver of governmental immunity.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1652, As Introduced: a negative impact of (\$3,503,958) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|-------------|--|
| 2008 | (\$1,850,873) |
| 2009 | (\$1,653,085) |
| 2010 | (\$2,733,681) |
| 2011 | (\$2,606,270) |
| 2012 | (\$2,606,270) |

All Funds, Five-Year Impact:

| Fiscal Year | Probable (Cost) from <i>GENERAL REVENUE FUND</i> 1 | Probable (Cost) from <i>STATE HIGHWAY FUND</i> 6 | Change in Number of State Employees from FY 2007 |
|-------------|--|--|---|
| 2008 | (\$1,850,873) | (\$529,859) | 31.0 |
| 2009 | (\$1,653,085) | (\$481,842) | 31.0 |
| 2010 | (\$2,733,681) | (\$764,483) | 50.0 |
| 2011 | (\$2,606,270) | (\$741,723) | 50.0 |
| 2012 | (\$2,606,270) | (\$741,723) | 50.0 |

Fiscal Analysis

The bill would amend the Texas Tort Claims Act to allow an injured person to sue a governmental entity for damages resulting from personal injury or death caused by the negligence of the governmental unit. Currently, in cases not involving motorized vehicles or equipment, only damage suits against a governmental entity for "personal injury and death so caused by a condition or use of tangible personal or real property" is allowed. The provisions of the bill remove this language and expand the current statutory waiver of sovereign immunity as to effectively remove limitations on possible suits filed by the general public and limit the ability of the state to defend itself in tort litigation on the basis of sovereign immunity.

Methodology

The Office of the Attorney General (OAG) indicates that the provisions of the bill as it relates to defending the State against tort litigation would significantly increase the workload of the agency. As a result, the OAG indicates that for fiscal year 2008 and 2009, 31 FTEs would be required to manage and litigate additional cases. The salary cost for these FTEs would be \$1,493,210 in General Revenue and \$439,552 from the State Highway Fund No. 006. In addition, a one-time capital equipment cost for the first year for items such as computers and furniture would total \$197,788 in General Revenue and \$48,017 in State Highway Fund No. 006. General operating costs for these FTEs would be \$159,875 in General Revenue and \$42,290 in State Highway Fund No. 006.

The OAG also indicates that the workload of the agency would increase in fiscal years 2010, 2011, and 2012. As a result, an anticipated increase in the number of cases filed would necessitate an additional 19 FTEs to handle the increased workload. The salary costs associated with these additional FTEs would be \$768,449 in General Revenue and \$219,776 in State Highway Fund No. 006. In addition, a one-time capital equipment cost for items such as computers and furniture would be \$127,411 in General Revenue and \$22,760 in State Highway Fund No. 006. General operating costs for these additional FTEs would be \$184,736 in General Revenue and \$40,105 in State Highway Fund No. 006.

As a result of the additional tort litigation against the State, it is assumed that there would be a significant fiscal impact to all state agencies resulting from monetary awards. However, the fiscal impact cannot be estimated at this time because the number of cases resulting in monetary awards is not known.

Local Government Impact

The fiscal impact to local units of government could be significant depending upon the increased number of cases and monetary awards.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, KJG, SD, JM, MS