

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0958H.011
Bill No.: HB 363
Subject: Civil Procedure; Liability; Courts; Health, Public
Type: Original
Date: February 17, 2021

Bill Summary: This proposal modifies provisions relating to actions for damages due to exposure to asbestos.

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 from the **Attorney General's Office (AGO)** assumes 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 hears 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 the State Courts Administrator**, the **Department of Labor and Industrial Relations** and the **Department of Public Safety's Veterans' Commission** 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.

<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 bill applies to asbestos tort actions filed on or after August 28, 2021, and to pending asbestos tort actions where trial has not commenced as of such date. The bill:

- (1) Requires a claimant to provide all parties in an action a sworn statement indicating that all asbestos trust claims that the claimant can file have been completed and filed. In addition, the claimant must provide all parties with all trust materials relating to the asbestos exposure and related claims;
- (2) Allows any defendant in an asbestos tort action to file a motion for an order to stay the proceedings. The motion must contain information the defendant believes supports any additional asbestos trust claim that the claimant may file;

(3) Requires trust claims materials and trust governance documents to be admissible in evidence. Claims of privilege do not apply to trust claims materials or trust governance documents;

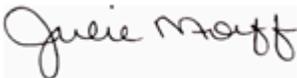
(4) Allows the parties in the asbestos tort action to introduce at trial any trust claims material to prove alternative causation for the exposed person's claimed injury, death, or loss to person to prove a basis to allocate responsibility for the claimant's claimed injury, death, or loss to person and to prove issues relevant to an adjudication of the asbestos claim, unless the exclusion of the trust claims material is otherwise required by the rules of evidence. Settlements with bankruptcy trusts shall reduce the claim by the stipulated amount of the agreement or amount of consideration paid; and

(5) Allows the court to, upon motion by the defendant, dismiss an action without prejudice for the claimant's failure to comply with these disclosure requirements. A defendant may, within three years after judgment, move to reopen a judgment in an asbestos action if a claimant files certain additional asbestos trust claims.

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 the State Courts Administrator
Department of Labor and Industrial Relations
Department of Public Safety -Veterans Commission



Julie Morff
Director
February 17, 2021



Ross Strobe
Assistant Director
February 17, 2021