

**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**



Fiscal Note On: **SB 390** SLS 18RS 7  
 Bill Text Version: **ENGROSSED**  
 Opp. Chamb. Action: **W/ SEN FLOOR AMD**  
 Proposed Amd.:  
 Sub. Bill For.:

<b>Date:</b> May 8, 2018	2:57 PM	<b>Author:</b> CLAITOR
<b>Dept./Agy.:</b> Executive / Office of Risk Management		<b>Analyst:</b> Willie Marie Scott
<b>Subject:</b> Judgments		

SUITS AGAINST STATE. EGF INCREASE SD EX See Note Page 1 of 2  
 Provides for the order of payment of judgments and compromises against the state, subject to funding. (gov sig)

The proposed law retains the present law but to the extent that final nonappealable judgments or compromises cannot be paid from the Self-Insurance Fund, any appropriated funds made available to pay such judgments or compromises shall be allocated in the following order with the oldest judgments or compromises being paid first in each category: 1) compromised lawsuits less than \$100,000; 2) final nonappealable judgment less than \$100,000; 3) compromised lawsuits between \$100,000 and \$250,000; 4) final nonappealable judgment between \$100,000 and \$250,000; 5) compromised lawsuits in excess of \$250,000; and 6) nonappealable judgments in excess of \$250,000. It further provides that the amount for each judgment and compromise shall include judicial interest. However, any judgment or compromise in excess of \$250,000, the plaintiff(s) may elect to have the first \$250,000 paid as if the judgment were classified between \$100,000 and \$250,000. Any payment subsequently made shall be reduced by the amount of the payment made, and no additional interest shall accrue on any amount that was actually paid. The state agency or department which is found to be **(Continue on Page 2)**

EXPENDITURES	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>5 -YEAR TOTAL</u>
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u><b>\$0</b></u>
<b>Annual Total</b>						
REVENUES	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>	<u>5 -YEAR TOTAL</u>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u><b>\$0</b></u>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**EXPENDITURE EXPLANATION**

According to the Office of Risk Management (ORM), claims involving uninsured losses resulting in a judgment or compromise would be subject to the proposed legislation; including road hazard claims against DOTD, claims that exceeds ORM's self-insured retention, and compromises and judgments as a result of a policy exclusion. Each of the aforementioned requires a specific appropriation. Currently, once a compromise or judgment is appropriated and review of documents, ORM submits a request to the Treasury for payment. ORM indicates delaying the payment of some judgments will increase the amount of interest the State is obligated to pay. While the proposed legislation provides for JLCB to change the order of payment on a case-by-case basis, ORM indicates this will also result in a delay of 30 days or more.

The Treasury indicates most judgments were paid from SGF. According to DOA supporting documents, FY 15 was the last actual disbursement for judgments at approximately \$8.9 M, of which 80% were less than \$100,000, 7% between \$100,000 and \$250,000, and 13% in excess of \$250,000. **Note:** There are currently 274 unpaid judgments totaling approximately \$127.43 M (excluding interest) of which 3% is less than \$100,000, 3.8% is between \$100,000 and \$250,000, and 93.2% is in excess of \$250,000. There is one lawsuit (filed 4/6/1984) still outstanding which includes the original award amount of \$91,824,721 minus \$6.5 M paid into an escrow account that plaintiffs have not accessed; and an estimated \$233,683,575 in interest. Approximately \$12,579 in interest daily will be accrued for a projected \$3.8 M in additional interest for the remainder of the calendar year.

Creating a new statutory dedication (Payments of Judgments Fund) within the state treasury will result in a marginal additional workload for the Treasury, which can generally be absorbed with existing resources. However, to the extent other legislative instruments create new statutory dedications, there may be material additional costs associated with the aggregate effort to administer these funds and at some threshold the agency may require additional staff resources and incur additional SGF expenditures.

**REVENUE EXPLANATION**

There is no anticipated direct material effect on governmental revenues as a result of this measure.

Senate      Dual Referral Rules  
 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}  
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

House  
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}  
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

*Evan Brasseaux*  


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**Staff Director**

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**CONTINUED EXPLANATION from page one:**

at fault shall pay 5% of the judgment from its appropriated funds; and authorizes the JLCB to allow changes to the order set forth in the proposed law on a case-by-case basis. It also creates the Payment of Judgments Fund which shall be comprised of all monies appropriated, donated, or otherwise made available to satisfy and pay judgments against the state. Interest earned on the investment of monies in the fund shall be deposited to the fund; and all unexpended and unencumbered monies in the fund at the close of each fiscal year shall remain in the fund. It further requires the ORM to notify the commissioner of administration of all final nonappealable judgments and compromises which cannot be paid from the Self-Insurance Fund as of December 31. The governor may include funding in the Executive Budget to pay such judgments or compromises, including judicial interest and costs; and the legislature may appropriate monies into the fund to pay such judgments.

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