

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



Fiscal Note On: **SB 182** SLS 19RS 360

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

<b>Date:</b> May 1, 2019	10:11 AM	<b>Author:</b> HEWITT
<b>Dept./Agy.:</b> Statewide		<b>Analyst:</b> Alan M. Boxberger
<b>Subject:</b> Provides for reimbursement of sexual harassment judgments		

SUITS AGAINST STATE OR INCREASE OF EX See Note Page 1 of 2  
Provides for reimbursement of taxpayer dollars used to pay sexual harassment judgments or settlements. (8/1/19)

**Proposed law** declares the public policy of the state with regard to seeking by civil suit to recover from sexual harassers the amounts paid by the state to the complainant and the costs of reasonable attorney fees incurred by the state; provides for definitions; limits applications to certain claims; provides that in the event a lawsuit is filed under state or federal law and the state is cast in judgment or enters into a settlement, the state through the attorney general (AG) shall by civil suit seek restitution from the sexual harasser of the amounts paid by the state to the complainant, the costs and reasonable attorney fees incurred by the state in the litigation, and all costs and reasonable attorney fees incurred by the AG in the civil suit seeking restitution; provides for disciplinary action against harassers; provides that notwithstanding any law to the contrary, the state, the agency and the sexual harasser shall not be deemed to be solidary obligors; provides for annual notification by the commissioner of administration regarding potential individual liability by public servants if determined to have committed sexual harassment; provides that any settlement executed in connection with a claim is a public record with exception of the victim's name; prohibits state agencies from entering into a nondisclosure agreement either prior to filing of a lawsuit or at any time after a lawsuit is filed; and provides for an effective date.

<b>EXPENDITURES</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
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>	<b><u>\$0</u></b>
<b>Annual Total</b>						
<b>REVENUES</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
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>	<b><u>\$0</u></b>
<b>Annual Total</b>						

**EXPENDITURE EXPLANATION**

**Proposed law** is likely to result in significant expenditure increases by the Attorney General's office associated with efforts to recoup expenses related to sexual harassment judgments or settlements and associated legal costs, as well as claims of intimidation, reprisal, retaliation or discrimination due to the filing of a sexual harassment claim. The expenditure increase will be a result of increased litigation costs and collection activities for those payments eligible for recovery. These lawsuits would fall within the purview and authority of the Office of Risk Management (ORM). ORM reports that it would be required to fund litigation instituted by the attorney general (AG) to recover sums as a result of such claims. Payments from ORM to the AG will be completed by IAT.

Many claims of this nature are resolved through settlement when deemed in the best interest of the state and the accused public servant must consent to the settlement. Given that **proposed law** will require the accused to reimburse all costs, the incidence of public servants refusing to settle and going to trial may increase. To the extent the state must litigate additional actions through court trials above baseline levels, resolution of actions is prolonged, the odds that appeals will increase, and the potential accrual of additional judicial interest, **proposed law** will likely result in additional expenditures that in turn the AG must attempt to recoup from the accused sexual harasser. The ability of the AG to successfully recoup a judgment or settlement, plus associated legal costs, is indeterminable.

The AG reports that the provisions of **proposed law** requiring the AG to bring civil suit seeking restitution from public servant sexual

**REVENUE EXPLANATION**

**Proposed law** will likely result in an indeterminable increase (return of appropriation) associated with recoupment of certain expenses incurred by the state associated with sexual harassment lawsuits. Return of appropriation is not considered revenue in the state accounting system, but discussion is included in the revenue section of this fiscal note in an effort to delineate costs and recovered monies. From an accounting perspective, a return of appropriation would be viewed as a reduction in expenditures as the monies are returned to the expenditure account. **Proposed law** provides for reimbursement of taxpayer dollars used to pay sexual harassment judgments or settlements as well as associated legal costs. These lawsuits would fall within the purview and authority of the Office of Risk Management (ORM). Litigation instituted by the attorney general (AG) to recover sums as a result of such claims would be funded by ORM. The AG would seek reimbursement on behalf of ORM for the amount of any judgment or settlement paid, the cost and attorney fees incurred by defending the sexual harassment claim, and the cost and attorney fees incurred in connection with suing for and obtaining the reimbursement. The ability of the AG to successfully recoup a judgment or settlement, plus associated legal costs, is indeterminable but presumed to result in a net increase in state revenues.

To the extent **proposed law** results in a recoupment of monies paid by ORM, the state may realize a positive fiscal impact. The ability of the state to recover will largely depend on the financial assets available to the public servant found to have committed sexual harassment. Remedies for collection are liens, garnishment and asset forfeitures or seizures. **Proposed law** does not grant the AG any discretion in

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:
EXPENDITURE EXPLANATION CONTINUED FROM PAGE ONE

harassers will require the creation of a new section with a minimum of five new T.O. positions. The AG assumes the expenses associated with the personal and operating services costs of these attorneys would then be payable by the defendant in the recoupment suit, if successful. The AG estimates first-year costs at \$433,191, including hiring five T.O. positions (3 Assistant Attorneys General and 2 Administrative Assistants) at a personal services cost of \$413,876 and acquisitions of office equipment and other supplies at approximately \$19,315. The AG estimates that ensuing fiscal year costs will reflect an increase of 4.07% annually in personal services costs, and ongoing acquisitions of supplies at approximately \$1,000 in FY 21 and growing by 10% annually in future fiscal years. The Legislative Fiscal Office is unable to determine or validate the staff level necessary to provide for the litigation as required in proposed law. To the extent the additional workload is less than the AG anticipates, the additional workload may be absorbable, either wholly or partially, using existing staff and resources.

AG's assumed cost estimates

Table with 6 columns: Category, FY 20, FY 21, FY 22, FY 23, FY 24. Rows include Personal Services, Acquisitions, and Total.

Proposed law provides for annual notification to all public servants regarding potential individual liability if determined to have committed sexual harassment. This provision is unlikely to create a material expenditure impact.

REVENUE EXPLANATION CONTINUED FROM PAGE ONE

connection with instituting suit, requiring the AG to pursue reimbursement even when the defendant may have no real assets to fund a reimbursement. Additional limitations to the state's ability to recover may include an accused filing for bankruptcy, the time required to satisfy a sizable debt through garnishment, and the capacity to collect from liens on immovable property.

For informational purposes, the Office of Risk Management (ORM) reports that it paid \$1.6 M in damages for sexual harassment claims between FY 09 and FY 18. An additional \$2.5 M was paid for attorney fees and litigation costs. Given these parameters, ORM estimates the potential sum that may be eligible for reimbursement annually at \$410,000 [(\$2.5 M + \$1.6 M)/10 years]. This figure would be reduced based on the extent to which a state agency were assigned a percentage of fault if the suit were to go to trial. This percentage fault assigned to the state would reduce the portion of cost eligible to be recovered from the accused public servant.

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