

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 9** HLS 20RS 205
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

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| Date: May 20, 2020 6:06 AM | Author: GAROFALO |
| Dept./Agy.: LA Supreme Court/Office of Risk Management | Analyst: Zachary Rau |
| Subject: Omnibus Premium Reduction Act of 2020 | |

INSURANCE/AUTOMOBILE EG SEE FISC NOTE SG EX See Note Page 1 of 1
 Enacts the Omnibus Premium Reduction Act of 2020

Proposed law increases the prescriptive period for delictual actions for injury or damage arising from the operation or control of all means of conveyance by 1 year, from 1 year to 2 years. Proposed law reduces the threshold for a petitioners' cause of action that may result in a civil jury trial by \$45,000, from \$50,000 to \$5,000. Proposed law limits the amount of medical expenses that are recoverable damages in civil litigation to actual payments made by a third-party payor (private insurer, Medicare, Medicaid) to a health care provider, or the amount payable under the medical payments fee schedule of the Workers Compensation Law if paid pursuant to R.S. 23:1020.1 et seq. Proposed law allows for admissibility of evidence in cases where persons are seeking damages for injury, death, or loss concerning amounts paid or contributed to medical expenses by or on behalf of the person claiming damages, as well as the amount third parties would have paid if the medical bills had been submitted by the claimant to their health insurance issuer, Medicare, Medicaid, or another third-party payor. Proposed law repeals provisions allowing for direct action against liability insurers except in certain circumstances. Proposed law provides for rate reviews and reductions when actuarially justified for automobile insurers. Proposed law is prospective in nature only. Effective January 1, 2021.

| EXPENDITURES | 2020-21 | 2021-22 | 2022-23 | 2023-24 | 2024-25 | 5 -YEAR TOTAL |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| State Gen. Fd. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Agy. Self-Gen. | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | |
| Ded./Other | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| Annual Total | | | | | | |
| REVENUES | 2020-21 | 2021-22 | 2022-23 | 2023-24 | 2024-25 | 5 -YEAR TOTAL |
| State Gen. Fd. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Agy. Self-Gen. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Ded./Other | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| Annual Total | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |

EXPENDITURE EXPLANATION

Proposed law will have an indeterminable net effect on SGR expenditures for the Division of Administration, Office of Risk Management (ORM) as a result of revisions to the jury trial threshold, prescriptive period for delictual actions involving means of conveyance, and collateral source provisions. ORM anticipates an indeterminable net expenditure increase associated with increased payments of overall damages and interest in lawsuits that would be partially offset by reduced payments to aggrieved parties for past medical expenses. ORM reports that it may realize increased damages resulting for more suits going to trial as a result of the lowered civil jury trial threshold, which may lengthen timelines for litigation and additional interest paid on overall damages. However the aggregate effect proposed law may have on the number of jury trials in Louisiana is presently indeterminable, as is the additional number of trials involving the state. Therefore, expenditures associated with effects on the number of jury trials are indeterminable.

ORM staff further report that the increased prescriptive period may reduce its ability to investigate claims against the state, which may lead to more settlements with aggrieved parties in lieu of pursuing a jury trial, as the state may not be able to defend itself as a result of losing evidence over the two-year period. The aforementioned effect of the extended prescriptive period may be partially mitigated by limiting suits filed to delictual actions involving means of conveyance. In addition, provisions of proposed law limiting damages for recoverable medical expenses to those paid by a third-party payor may reduce any anticipated expenditures associated with additional settlements and interest paid on damages. Because of the aforementioned factors, any expenditure effects associated with proposed law are indeterminable.

Note: Discussions with staff at the LA Supreme Court indicate that costs associated with additional jury trials will be funded utilizing jury bonds furnished by the litigant(s) seeking a jury trial.

Note: Discussions with staff at the LA Supreme Court, ORM, and the Clerks of Courts Association did not yield to what extent overall jury trial levels may or may not be affected by the proposed legislation.

Note: Based on information received from the LA Supreme Court, district justices anticipate the lowered jury trial threshold will result in increased requests for jury trials, which are also docketed in a limited manner. As a result, the increased demand for jury trials may lead to a delay in trials and backlogged dockets, potentially necessitating more judgeships which would require funding via a state appropriation. However, because the extent to which there will be additional trials as a result of the proposed law is indeterminable, the overall effect it will have on dockets, and the prospective need for additional judgeships is similarly indeterminable.

REVENUE EXPLANATION

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

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| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H} | | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H} | | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

Evan Brasseaux
Evan Brasseaux
Staff Director