HOUSE BILL REPORT
HB 2111

As Reported By House Committee On:
Appropriations

Title: An act relating to the elimination of the tort claims revolving fund.

Brief Description: Eliminating the tort claims revolving fund.

Sponsors: Representatives Alexander, Benson, Wolfe, Constantine, Hatfield, Grant and H. Sommers; by request of Attorney General and Department of General Administration.

Brief History:

Committee Activity:

Appropriations: 2/22/99, 2/23/99 [DPS].

Brief Summary of Substitute Bill

- Consolidates funding for all state tort-related costs into one account, the Liability Account.
- Modifies the manner in which agencies pay for tort defense to a self-insurance approach.
- Requires a report on Liability Account activities.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Alexander, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Barlean; Benson; Boldt; Carlson; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Kessler; Lambert; Linville; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Tokuda and Wensman.

Staff: Mark Matteson (786-7145).

Background:

Torts Claim Accounts - Currently the state relies on two separate systems for paying claims arising from tort cases. Claims from incidents prior to July 1, 1990, are paid out of the Tort Claim Revolving Fund (TCRF); those from incidents after July 1, 1990, are paid out of the Liability Account. The TCRF involves a pay-as-you-go approach: claims are paid and agencies then invoiced for reimbursement. The Liability Account is funded by annual premiums paid by agencies for the Self-Insurance Liability Program (SILP). The Department of General Administration (GA) maintains separate processes for each of the tort claims payment types, each involving separate actuarial and management needs.

As time goes on, the percentage of total claims paid out of the TCRF is decreasing while that paid out of the Liability Account is increasing. Current outstanding liabilities in the SILP are estimated to be $108.4 million, while those in the TCRF are estimated at $16.5 million. In the early part of the next decade, the Risk Management division of the GA expects claims paid out of TCRF to be less than 10 percent of total claims paid out.

Payment of Tort Defense Costs - Currently, the cost of tort defense is paid to the Office of the Attorney General (AG) by the defendant agency. While certain large agencies, such as the departments of Transportation, Social and Health Services, and Corrections, have historically received appropriations for tort defense costs, most agencies do not. To cover unexpected defense costs, most agencies must either find money in their operating budgets or request expenditure authority through the Tort Defense Revolving Account controlled by the Office of Financial Management (OFM). The agency then requests a supplemental appropriation to cover the shortfall in the operating budget or in the Tort Defense Revolving Account.

Because of trends in tort cases against the state, the costs of tort defense have escalated. With increasing tort costs, there have been growing numbers of agency requests for appropriations in supplemental budgets to cover the costs.

The AG is also authorized under current law to represent foster parents in suits arising from the good faith provision of foster care services.

Summary of Substitute Bill:

Consolidation of Torts Accounts - Financing for all tort-related costs is consolidated into one account, the Liability Account. Moneys remaining in the Tort Claims Revolving Fund are deposited into the Liability Account, and all tort claims against the state will be paid out of the Liability Account. The GA will report on the activities in the Liability Account after the close of the 1999-2001 fiscal biennium.

Torts Defense Costs Financing Changes - Costs of tort defense services for state agencies will be paid from the Liability Account and will be billed to state agencies on a premium basis. Costs of tort defense services for foster parents will continue to be paid from appropriations made for this purpose.

Reporting - After the close of the 1999-2001 fiscal biennium, GA must report to the Governor and the Legislature on activities in the Liability Account.

Substitute Bill Compared to Original Bill: The substitute bill makes technical corrections to change all statutory and references to the tort claims account and to clarify that temporary language is not codified. The substitute bill adds the reporting requirement.

Appropriation: None.

Fiscal Note: Requested February 15, 1999.

Effective Date of Substitute Bill: July 1, 1999.

Testimony For: (original bill) The consolidation of all tort-related financing into one account will simplify and facilitate the manner in which the state pays for tort claims and defense. The consolidation enhances the state risk management process by eliminating duplicate record keeping, by streamlining the administration process for defense cost payment, and by focusing agency attention on the full cost of torts in advance.

Testimony Against: None.

Testified: (original bill) Rep. Gary Alexander, prime sponsor; Betty Reed, Department of General Administration; Gary Ikeda and Mike Tardif, State Attorney General's Office; Larry Shannon, Washington State Trial Lawyers Association; and Tom Saelid, Office of Financial Management.