

SENATE BILL REPORT

SB 5904

As of February 22, 1999

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

Brief Description: Eliminating the tort claims revolving fund.

Sponsors: Senators Loveland, Winsley, Long, Prentice, Kline, Bauer, West and Rasmussen; by request of Attorney General and Department of General Administration.

Brief History:

Committee Activity: Ways & Means: 2/23/99.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Steve Jones (786-7440)

Background: A tort is a noncontractual civil claim based on injuries or damages. While the common law doctrine of sovereign immunity declares that governments are not subject to tort liability, the state of Washington has waived this immunity and has provided statutory mechanisms for the defense, settlement, and payment of tort claims.

Prior to 1990, tort claims against the state were paid from the Tort Claims Revolving Fund, which is funded by a direct appropriation from the state funds and accounts on behalf of which the tort payments are made. In 1990, the Legislature established a Liability Account to pay future tort costs, to be funded by actuarial assessments on state agencies, based on the claim experience of each agency. The Tort Claims Revolving Fund was retained for purposes of paying claims for torts that were incurred prior to 1990. As these pre-1990 tort claims are resolved, the actuarial liability of this fund will decline to zero.

The Attorney General provides legal services to defend tort actions brought against state agencies. Since most state agencies do not have a predictable need for tort defense services, these costs are funded by a direct appropriation to the Attorney General, which is prorated among various state funds and accounts. In the case of five state agencies, however, the agency budget includes funding for tort defense services by the Attorney General. These agencies are the Washington State Patrol, University of Washington, and the Departments of Corrections, Social and Health Services, and Transportation.

Since 1995, tort payments by state agencies have significantly increased in the areas of child welfare, discrimination, harassment, employment, transportation, and crimes committed by persons under state supervision or released from state institutions.

Summary of Bill: Funding for tort defense services, pre-1990 tort payments, and post-1990 tort payments are combined in a single fund, the Liability Account. Funding for the account is provided by premiums paid by state agencies based on an actuarial assessment of the

agencies' liability experience. The Tort Claims Revolving Fund is abolished and the fund balance is transferred to the Liability Account.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 1999.