FINAL BILL REPORT
SHB 2111

C 163 L 99
Synopsis as Enacted

Brief Description: Eliminating the tort claims revolving fund.

Sponsors: By House Committee on Appropriations (Originally sponsored by Representatives Alexander, Benson, Wolfe, Constantine, Hatfield, Grant and H. Sommers; by request of Attorney General and Department of General Administration).

House Committee on Appropriations
Senate Committee on Ways & Means

Background:

Tort Claims Accounts. 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.

In the 1990's, the percentage of total claims paid out of the TCRF decreased while that paid out of the Liability Account increased. Outstanding liabilities in the SILP as of February, 1999, were estimated to be $108.4 million, while those in the TCRF were estimated to be $16.5 million. The Risk Management division of the GA expects claims paid out of TCRF in the early part of the 2001-2010 decade to be less than 10 percent of total claims paid out.

Payment of Tort Defense Costs. 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, an agency must either find money in its operating budget 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 in the late 1990's, 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 authorized to represent foster parents in suits arising from the good faith provision of foster care services.

Summary:

Consolidation of Tort Accounts. Financing for all tort-related costs is consolidated into one account, the Liability Account. Moneys remaining in the Tort Claims Revolving Fund as of June 30, 1999, are deposited into the Liability Account, and all tort claims against the state will be paid out of the Liability Account.

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, the GA must report to the Governor and the Legislature on activities in the Liability Account.

Votes on Final Passage:

House 97 0
Senate 49 0

Effective: July 1, 1999