HOUSE BILL ANALYSIS
HB 2111

Brief Description: Eliminating the tort claims revolving fund.

Brief Summary of Bill

- Consolidates funding for all state tort-related costs into one account.
- Modifies the manner in which agencies pay for tort defense to a self-insurance approach.

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 the General Administration (GA) maintains separate processes for each of the torts 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 (see Figure 1). 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

Prepared by Mark Matteson (786-7145)
House Appropriations Committee
February 22, 1999

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 recently, the costs of tort defense have escalated (see Figure 2). 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:

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.

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.

Fiscal Note: Requested February 15, 1999.

Effective Date: July 1, 1999.