

FISCAL NOTE

Requested by Legislative Council
01/16/2003

Bill/Resolution No.: HB 1293

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$300,000		\$500,000
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Section 2, page 2, lines 4-6 requires a court to award the prevailing party attorney fees. If this provision is enacted, the Risk Management Fund would incur additional expenses for litigated tort claims and all state agencies would incur additional expenses for litigated contract claims. In addition, the potential for being required to pay the other party's attorney fees may result in settling claims that otherwise would have been litigated and resolved in favor of the state, or result in the negotiated settlement amount being increased because the plaintiff is aware of the potential of being awarded attorney's fees. As with the federal civil rights act, 42 U.S.C. 1983, it is very possible this bill will increase the number of state law claims against the state because of the possibility of being awarded attorney's fees. The converse is not true in cases where the plaintiff may be judgment proof. Thus, the state bears a greater fiscal burden than the general public for this provision. A prevailing party could always collect from the state. However, if the state prevails, the other party may be judgment proof.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

While it is difficult to estimate the number of cases that would be litigated in a biennium, the cost to pay the attorney fees of a prevailing party is set at \$100,000. It is assumed that settling matters of unresolved liability that may possibly be determined in favor of the state would increase the settlement value up to \$50,000.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget.*

Indicate the relationship between the amounts shown for expenditures and appropriations.

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