

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6578

BILL NUMBER: HB 1146

DATE PREPARED: Feb 2, 2000

BILL AMENDED: Feb 1, 2000

SUBJECT: Tort claims against governmental entities.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill increases the combined aggregate liability of all governmental entities and public employees under the law concerning tort claims against governmental entities and public employees: (1) from \$300,000 to \$800,000 for injury to or death of one person in any one occurrence; and (2) from \$5,000,000 to \$8,000,000 for injury to or death of all persons in that occurrence.

It increases the individual claim limits (but not the aggregate claim limits) for policies provided to participating political subdivisions by the Political Subdivision Risk Management Commission from \$300,000 to \$500,000. It also increases the threshold amount over which the Political Subdivision Catastrophic Liability Fund will make partial payments for claims against a participating political subdivision from \$5,000,000 to \$8,000,000.

Effective Date: January 1, 2001.

Explanation of State Expenditures: This bill will potentially increase the damage awards that governmental entities would pay as a result of successful lawsuits filed against the state and political subdivisions of the state and public employees. Under current law, damage awards cannot exceed \$300,000 for the injury to, or death of, one person in any one occurrence and \$5 million for the injury to, or death of, all persons in that occurrence.

The Office of the Attorney General reports the amount of damages paid as a result of tort claims submitted and tort claim lawsuits filed against the State and by plaintiffs in tort and civil rights litigation between CY 1995 and CY 1999 as follows:

<u>CY</u>	<u>Damages Paid</u>
1999	\$4,169,011 (approx.)
1998	\$2,935,075
1997	\$3,438,230
1996	\$5,742,977
1995	\$6,362,071

The amount paid includes tort claims paid at the time of claim submission, settlements upon the filing of lawsuits, and as a result of a court order. It also includes cases in both federal and state court.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) This bill potentially increases the amount of money which the *Political Subdivision Risk Management Fund* and the *Political Subdivision Catastrophic Liability Fund* would have to pay out in claims to eligible members. The bill increase the maximum payout amount under the *Risk Management Fund* from \$300,000 to \$500,000, and increases the threshold amount over which the *Catastrophic Liability Fund* will make partial payments for claims against a participating political subdivision from \$5,000,000 to \$8,000,000.

The Indiana Political Subdivision Risk Management Commission was established as a separate body corporate and politic. Its purpose is to aid political subdivisions in protecting themselves against liabilities. The Commission administers two funds: the *Political Subdivision Risk Management Fund* and the *Political Subdivision Catastrophic Liability Fund*.

The *Risk Management Fund* was established to pay the liabilities of political subdivisions which arise out of a claim based upon an act or omission that takes place while the political subdivision is a member of the *Fund*. The *Political Subdivision Catastrophic Liability Fund* was established for the purpose of paying obligations that arise from multiple claims for the payment of money that are within the limits set forth in the Tort Claims Act and that arise from a single catastrophic occurrence. The State is not responsible for the payment of any obligation of the Commission.

Currently, there are no members of the *Political Subdivision Risk Management Fund* due to the ability of political subdivisions to obtain affordable liability insurance. Operation of the *Fund* is suspended pending a review of the status of the liability insurance market. However, in 1998, \$47,894 was collected by the *Fund* and \$38,961 was paid out in claims by the *Fund*.

Fourteen political subdivisions are currently members of the *Political Subdivision Catastrophic Liability Fund*. They include the following towns: Arcadia, Burns Harbor, Chesterton, Hebron, Couts, Ogden Dunes, Porter. The remaining members are the Gill Township Levy, Porter County, Osolo Township, Nappanee Airport, Monroe County Solid Waste Management District, Northern Indiana Commuter Transportation District, and Northern Indiana Commuter Transportation District Police. The current balance of the *Fund* is approximately \$5M. In 1998, \$722,882 was collected by the *Fund* and \$326,213 was paid out in claims by the *Fund*. Figures from 1999 will not be available until spring of 2000.

Explanation of Local Revenues:

State Agencies Affected: Office of the Attorney General; Department of Insurance.

Local Agencies Affected: Counties, cities and towns.

Information Sources: Dan Dovenbarger (317) 232-6201, Office of the Attorney General; Adam Crowe, Deputy Commissioner, Department of Insurance, (317) 232-5693.