

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 103
Version: First engrossment

DATE: February 25, 2009

Authors: Atkins and Lesch

Subject: State Tort Liability Cap

Analyst: Matt Gehring, 651-296-5052

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Overview

This bill removes the existing liability cap that applies to tort claims made against the state, and limits the use of the Trunk Highway Fund to make tort claim payments.

Section

- 1 Findings.** Establishes legislative findings to justify the statutory modifications included in the bill.

Among the findings, this section states that the legislature finds that the state, unlike a municipality, has the fiscal capacity and ability to absorb the cost of and pay for multiple tort claims arising out of a single occurrence without a dollar limitation on the liability. It also specifies that a limit on claims against a municipality is necessary to protect the fiscal stability and integrity of the municipality, and to protect the taxpayers within the municipality from unlimited tort liability exposure.
- 2 Liability limits.** Removes the limit on the total liability exposure of the state for claims arising on or after July 1, 2009. An increase in the existing liability cap scheduled to occur on July 1, 2009, is removed. The current limit on claims arising out of a single occurrence is \$1.2 million.

An existing cap and scheduled increase for an award to an individual person resulting from an occurrence remains unchanged.
- 3 Payment; Trunk Highway Fund.** Prohibits the Trunk Highway Fund from being used to fund tort claim payments in excess of the amount specifically allocated for those payments.
- 4 Offers of settlement.** Makes a technical modification to reflect organizational changes made in section 1 of the bill.
- 5 Amounts not considered.** Makes a technical modification to reflect organizational changes

made in section 1 of the bill.

- 6 **Contingent repealer.** Provides that the removal of the tort liability cap is repealed if a final court decision holds that the existing liability cap applicable to municipalities – which would remain in law if this bill is enacted – is deemed unconstitutional as a result of the changes made by this bill.

In effect, such a decision would revert the state back to the current liability cap structure, providing a cap of \$1.2 million for claims arising between January 1, 2008 and July 1, 2009, and \$1.5 million for claims arising on or after July 1, 2009.