



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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<b>Bill Number:</b>	S. 0007	Introduced on January 8, 2019
<b>Author:</b>	Malloy	
<b>Subject:</b>	S.C. Torts Claims Act	
<b>Requestor:</b>	Senate Judiciary	
<b>RFA Analyst(s):</b>	Miller	
<b>Impact Date:</b>	January 22, 2019	

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### **Fiscal Impact Summary**

This bill would increase General Fund expenditures by \$21,400,000 to pay for an increase in insurance premiums paid by all state entities to the Insurance Reserve Fund (IRF), a division of the State Fiscal Accountability Authority, beginning in FY 2019-20. Additionally, this bill would increase the IRF's Trust Funds expenditures by an undetermined amount because of the increase in the loss amount paid for claims, beginning in FY 2019-20.

Also, this bill would increase the IRF's Trust Fund revenue by \$40,400,000 due to an increase in collection of insurance premiums, beginning in FY 2019-20.

Further, this bill would increase local expenditures by \$19,000,000 due to an increase in insurance premiums paid by local entities to IRF, beginning in FY 2019-20.

### **Explanation of Fiscal Impact**

#### **Introduced on January 8, 2019**

#### **State Expenditure**

This bill increases the limits of liability under the South Carolina Torts Claims Act to \$1,000,000 for a loss for one person and \$2,000,000 total. Both apply to a single occurrence regardless of the number of agencies or subdivisions involved. Additionally, these limits must be adjusted annually in accordance with the Consumer Price Index for all Urban Consumers, South Region, published by the U. S. Department of Labor.

Currently, the limits of liability under the South Carolina Torts Claims Act are \$300,000 for a loss for one person, and \$600,000 total. Both limits applying to a single occurrence regardless of the number of agencies or subdivisions involved, and \$1,200,000 limit for an occurrence arising from an incident with a doctor or dentist. This bill increases the \$300,000 limit to \$1,000,000 and the \$600,000 limit to \$2,000,000.

The Insurance Reserve Fund (IRF), a division of the State Fiscal Accountability Authority (SFAA), provides insurance coverage to cover these liabilities, among others. All state agencies are required to purchase insurance coverage from the IRF. The IRF also provides insurance to some counties, municipalities, political subdivisions, and other governmental entities. The premiums charged by IRF are set in consultation with an actuary.

This bill would cause an increase in General Fund expenditures for all state agencies due to an increase in cost of premiums to offset the increased liability coverage. The IRF consulted with its actuary and estimated the impact for the following premiums to be:

- General Tort: between 15 percent and 31 percent
- Professional Liability: between 45 percent and 63 percent
- Commercial Auto: 34 percent
- School Bus: between 16 percent and 28 percent

IRF anticipates the impact of this bill in compilation with a potential rate increase, which will be considered on January 29, 2019, would increase total premiums collected from state entities by \$21,400,000. Therefore, this bill would increase General Fund expenditures by \$21,400,000 beginning in FY 2019-20.

Additionally, this bill would cause an increase in expenditures from IRF’s Trust Fund to cover an increase in the amount of loss paid for claims due to the increase in the limit of liability. IRF tracks the number of claims filed under each type of liability insurance and the amount of loss paid per claim. This data is not separated into the claims subject to the various limitations, therefore RFA is unable to determine which of the claims filed were subject to the \$300,000 limitation, \$600,000 limitation, and \$1,200,000 limitation or claims brought under the Federal Statutes. Additionally, the policies issued by the IRF are occurrence based such that the amount of loss paid will tie back to the time period in which the actionable incident occurred. A claim may take many years to close in order to determine the amount of loss paid. Therefore, the more recent annual data is subject to being updated as more claims close.

The tables below lists all claims by type of liability coverage that will be impacted, since 2009 that has closed with a loss paid of greater than \$200,000 for a single person, single occurrence and greater than \$400,000, for more than one person, for a single occurrence. Additionally, please see the third table for additional data for all claims filed under each type of liability policy.

<b>10 Year History 2009-2018</b>		
	<b>Number of Losses Paid Greater Than \$200,000 1 person/1 Incident</b>	<b>Total Losses Paid</b>
<b>Auto Liability</b>	74	\$19,546,157
<b>Professional Liability - Institution</b>	142	\$68,041,500
<b>Professional Liability - Physician</b>	73	\$23,377,000
<b>School Bus Liability</b>	19	\$5,289,100
<b>Torts Liability</b>	198	\$66,566,840

<b>10 Year History 2009-2018</b>		
	<b>Number of Losses Paid Greater Than \$400,000 &gt;1person/1 Incident</b>	<b>Total Losses Paid</b>
<b>Auto Liability</b>	14	\$14,925,766
<b>Professional Liability - Institution</b>	80	\$50,365,500
<b>Professional Liability - Physician</b>	12	\$6,265,000
<b>School Bus Liability</b>	5	\$2,533,564
<b>Tort Liability</b>	72	\$42,377,861

<b>10 Year Average 2009-2018</b>				
	<b>Average Number of Claims Filed</b>	<b>Average Number of Losses Paid</b>	<b>Annual Average Amount Loss Paid</b>	<b>Average Loss Paid per Case</b>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4 (3 ÷ 2)</b>
<b>Auto Liability</b>	1,448	1,051	\$9,271,310	\$8,826
<b>Professional Liability - Institution</b>	117	29	\$7,856,290	\$269,976
<b>Professional Liability - Physician</b>	79	37	\$3,828,617	\$104,894
<b>School Bus Liability</b>	1,061	269	\$2,701,629	\$10,062
<b>Tort Liability</b>	3,260	1,988	\$20,772,414	\$10,452

The IRF does not rely solely on historical data to estimate the potential impact of future amounts of loss paid. Instead, the actuary uses specific loss data, trend information, and other relevant information to project the risk of future amounts of loss paid and the corresponding increase to premiums to cover this risk. For this bill, the actuary is unable to determine the impact that the modified limits would have on behavioral effects, such as frequency of claims and propensity of claimants to go to trial rather than negotiate. Therefore, the impact to IRF's Trust Fund expenditures is undetermined, beginning in FY 2019-20.

### **State Revenue**

This bill would increase revenue for IRF's Trust Fund due to the increase in policy premiums. The increase would correspond to the increase in state and local expenditures to pay for the increased premiums and would be offset by the increase in losses paid due to the higher limits of liability specified in the bill. IRF anticipates the impact of this bill in compilation with a potential rate increase, which will be considered on January 29, 2019, would increase total premiums collected by \$40,400,000. Therefore, this bill would increase revenues for the IRF's Trust Fund by \$40,400,000 beginning in FY 2019-20.

### **Local Expenditure**

This bill increases the limits of liability under the South Carolina Torts Claims Act from \$200,000 to \$1,000,000 for a loss for one person and from \$600,000 to \$2,000,000 total, both limits correspond to incidents arising from a single occurrence regardless of the number of agencies or subdivisions involved. Additionally, these limits must be adjusted annually in accordance with the Consumer Price Index for all Urban Consumers, South Region, published by the U. S. Department of Labor.

Those counties, municipalities, and political subdivisions that opt to purchase insurance coverage from the IRF will experience an increase to premiums due to the increased limits of liability. The IRF consulted with its actuary and estimated the impact to premiums due to the increase in the limits of liability to be as follows:

- General Tort: between 15 percent and 31 percent
- Professional Liability: between 45 percent and 63 percent
- Commercial Auto: 34 percent
- School Bus: between 16 percent and 28 percent

IRF anticipates the impact of this bill in compilation with a potential rate increase, which will be considered on January 29, 2019, would increase total premiums collected from local entities by \$19,000,000. Therefore, this bill would increase local expenditures by \$19,000,000 statewide, beginning in FY 2019-20.

**Local Revenue**

N/A



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Frank A. Rainwater, Executive Director