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FISCAL IMPACT REPORT

SPONSOR Adair ORIGINAL DATE 2/25/09 HB _____
LAST UPDATED _____

SHORT TITLE Class Action Lawsuit Reform Act SB 663

ANALYST C. Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 663 enacts the new "Class Action Lawsuit Reform Act" that limits attorney fee awards to class counsel.

Section 1. SB663 is entitled the "Class Action Lawsuit Reform Act."

Section 2. Places limits on attorney fee awards to class counsel: (A) If a proposed settlement in a class action provides for a recovery of coupons, checks or other consideration to a class member, the attorney fee award to class counsel attributable to the recovery must be based on the value of the recovery and also shall not exceed one thousand times the average value of the coupons, checks or other consideration awarded to class members; (B) For the same type of recovery where the attorney fee award to class counsel is not attributable to the recovery, the award shall be based on the amount of time reasonably expended working on the action but shall not exceed one thousand times the average value of the coupons, checks or other consideration awarded to class members; (C) Where a class action has also resulted in an award for equitable relief, including injunctive relief, the court may award additional attorney fees to class counsel based upon the amount of time reasonably expended working on the action in the pursuit of equitable relief.

Section 3. Provides that this act shall apply to class action lawsuits filed on or after the effective date of the act.

FISCAL IMPLICATIONS

According to the AOC, there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the disputes over what type and level of attorney fees are appropriate in any class action suit. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

According to the AGO, this bill may limit the attorney fee awards the consumer protection division is able to collect in any class actions they may prosecute, thereby creating additional cost to the state for its work in prosecuting class actions for small award amounts to a large number of class members.

SIGNIFICANT ISSUES

According to the AGO, SB 663, as drafted, may have the effect of reducing the number of class action cases that attorneys are willing to bring, particularly if the case is complex and would result in small payments to large numbers of class members. For example, if the settlement award resulted in a \$5.00 check to 300,000 people, the attorney fee award could not exceed \$50,000. It would likely cost the attorney more than \$50,000 to pursue such an action. Therefore, a wrongdoer who illegally defrauds or otherwise illicitly gains small amounts from a large number of people would not likely be challenged in court for that wrongdoing.

RELATIONSHIP

SB 663 is related to SB 858, which provides that settlement funds received from a defendant that are not deliverable to class action members must be divided among available class action members and may not revert to the attorneys who pursued the action. SB 858 does not limit the amount of attorney fees in class action suits.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

CS/mt

