

FISCAL IMPLICATIONS

The revenue to be generated is indeterminate. The bill requires a cost benefit analysis on how much money the state general fund would receive from tort claimants recovering punitive damages and how much revenue the state would lose because of the bar placed in recovering punitive damages when the state is a party.

The prohibition on the state from recovering punitive damages on its own would seriously impair the state's ability to recover from wrongdoers who seriously and even intentionally impair the state's rights, laws, or injure its natural resources. Currently, the State Highway & Transportation Department (SHTD) has a claim for punitive damages in a lawsuit against a trucking company that was responsible for a hazardous chemical spill on I-10, which resulted in damage to the secondary highways used as a detour route while the spill was cleaned up. It is unknown to what extent SHTD will be successful in its claim. Nevertheless, this bill would preclude such actions in the future.

While the bill provides that the state would get any amounts awarded as punitive damages in civil tort lawsuits, juries and courts may decline to award punitive damages if they know that the monies would be awarded to the state and not to the prevailing party.

ADMINISTRATIVE IMPLICATIONS

If the state determines to monitor awards of punitive damages, there would be some small administrative cost.

CONFLICT

Senate Bill 6 also proposes to change how punitive damages are awarded in civil lawsuits. However, rather than requiring that punitive damage awards be paid to the state, the bill places limits on the amounts that can be awarded.

OTHER SUBSTANTIVE ISSUES

The premise of awarding punitive damages is to punish a wrongdoer and act as a deterrent. Opinions conflict as to whether the injured party recovers more than fair compensation when awarded punitive damages. Opponents would respond that the current system has stood the test of time and argue that most persons who recover damages in tort litigation are not fully compensated since their lawyer gets a substantial percentage as a contingency fee.

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