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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/26/10

SPONSOR McSorley LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Contracts Limiting Sexual Harassment Actions SJM 32

ANALYST Pava

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administration of the Courts (AOC)

#### Responses Not Received From

Attorney General Office (AGO)

### SUMMARY

#### Synopsis of Bill

Senate Joint Memorial 32 calls upon government to refuse to contract with companies whose contracts limit the rights of employees to seek legal redress outside of private arbitration for sexual harassment, and to review current contracts for the same.

The memorial notes that government engages in contracts worth billions of dollars and it has an obligation to ensure that public expenditures are made only for reasonable purposes without the content and provisions to abridge the rights of individuals employed under them to seek legal recourse in instances of alleged sexual assault, battery or discrimination.

The memorial cites the alleged 2005 incident of Jamie Leigh Jones, an employee of Halliburton/KBR being drugged and gang-raped by seven American contractors while working in Baghdad. She was prevented from taking legal action against her attackers or against the company because of a clause in her employment contract that stipulated sexual assault allegations only be heard in private arbitration.

The memorial states that such clauses may create a climate tolerating sexual assault and notes 2009 proposed federal legislation preventing doing defense business with entities utilizing such contracts. The memorial calls upon the legislature to condemn the use of such contract clauses and for state and local governments to refuse to enter into any contracts containing such clauses.

It also specifies review of all current contracts to determine if such clauses exist, then to discontinue such contracts and report these actions to the Dept. of Finance and the Legislative Council Service.

### **FISCAL IMPLICATIONS**

There is no appropriation or fiscal impact.

### **SIGNIFICANT ISSUES**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes that result from the approval of this memorial. Any additional fiscal impact on the judiciary would be proportional to any increased filing of actions contesting the refusal to award a contract or the discontinuance of a current government service contract, possibly on the basis of civil rights and freedom of contract. 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 volume.

### **PERFORMANCE IMPLICATIONS**

The courts participate in performance-based budgeting with measures of cases disposed of as a percent of cases filed and percent change in case filings by case type

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Employees of government contractors could suffer more sexual harassment without having the right of due process for civil litigation and the protection of criminal prosecutions.

CP/mew:svb