Department of Enterprise Services

2021-23 First Supplemental Budget Session

Maintenance Level - M5 - SILA Adjustments for ATG Fees

Agency Recommendation Summary

The State's tort liability exposure and the work required to defend that exposure have increased significantly in recent years. This request would increase funding for the Liability Account due to the added staff capacity in the Torts Division in the Attorney General's Office and the increased the use of contract attorneys while this in-house capacity is developed.

Fiscal Summary

Fiscal Summary	Fiscal Years		Biennial	Fiscal Years		Biennial
Dollars in Thousands	2022	2023	2021-23	2024	2025	2023-25
Operating Expenditures						
Fund 547 - 6	$2,925	$5,125	**$8,050**	$5,125	$5,125	**$10,250**
Total Expenditures	**$2,925**	**$5,125**	**$8,050**	**$5,125**	**$5,125**	**$10,250**
Revenue						
547 - 0496	$2,925	$5,125	**$8,050**	$5,125	$5,125	**$10,250**
Total Revenue	**$2,925**	**$5,125**	**$8,050**	**$5,125**	**$5,125**	**$10,250**

Decision Package Description

Washington is self-insured for the tortious conduct of its agencies and employees (RCW 4.92.130). Settlements, judgements and defense costs arising from tort claims are paid from the SILA account.
The fund also pays for premiums on the state's excess liability insurance policies to protect the state in the event of extraordinarily large claims. The Department of Enterprise Services, Office of Risk Management (DES ORM) receives and processes all tort claims made against the state.

The Office of the Attorney General (AGO) Torts Divisions, in accordance with RCW 4.92.210, represents and defends the State of Washington in actions alleging tortious conduct or violation of civil rights. Additionally, at the AGO's discretion, it may from time to time appoint Special Assistant Attorneys General (SAAGs) to handle or assist on particular matters. The cost associated with these defense costs is paid from the SILA account, per an Inter-Agency agreement between DES and AGO.

The Inter-Agency agreement (IAA) between the AGO and DES ORM for defense costs increased for the 21-23 biennium to $59.3 million, up from the previous biennial amount of $51.3 million. It is expected that the increase in costs will be ongoing.

Assumptions and Calculations

Expansion, Reduction, Elimination or Alteration of a current program or service:

N/A

Detailed Assumptions and Calculations:

The State's tort liability exposure and the work required to defend that exposure have both increased significantly during the past biennium. The AGO increased the value of the IAA for SILA related defense costs in effort to:

1. Expand the Torts Division's in-house litigation capacity, initially by adding attorneys and staff to existing litigation teams and, if warranted, by building out an additional litigation team in the second half of the biennium; and
2. Cover the fees and costs of cases that have been and will be assigned to out-of-house Special Assistant Attorneys General (SAAGs) while this in-house capacity is built out.

Further details and explanations are provided in the attached Memo FY21-23 Torts IAA.

Workforce Assumptions:

N/A

How is your proposal impacting equity in the state?

N/A

Strategic and Performance Outcomes

Strategic Framework:

Funding the SILA as recommended will allow DES ORM to resolve and pay claims expediently, reducing overall costs to the state. The premium allocation recommendations for each agency are based upon the agencies' claims payout history and pending claims. By allocating premiums in this fashion, agencies are incentivized to reduce risk and prevent costly claims.

Performance Outcomes:

Funding the SILA as recommended will allow DES ORM to resolve and pay claims expediently, reducing overall costs to the state. The premium allocation recommendations for each agency are based upon the agencies' claims payout history and pending claims. By allocating premiums in this fashion, agencies are incentivized to reduce risk and prevent costly claims.

Other Collateral Connections

Puget Sound Recovery:

N/A

State Workforce Impacts:

N/A

Intergovernmental:

N/A

Legal or Administrative Mandates:

- RCW 4.92.130
- RCW 4.92.210

Stakeholder Response:

N/A

Changes from Current Law:

N/A

State Facilities Impacts:

N/A

Reference Documents

SILA DP_21_22_IAA_Memo.pdf

IT Addendum

Does this Decision Package include funding for any IT-related costs, including hardware, software, (including cloud-based services), contracts or IT staff?

No

Objects of Expenditure

Objects of Expenditure *Dollars in Thousands*	Fiscal Years		Biennial	Fiscal Years		Biennial
	2022	2023	2021-23	2024	2025	2023-25
Obj. E	$2,925	$5,125	**$8,050**	$5,125	$5,125	**$10,250**

Agency Contact Information

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