

Legislative Analysis



USE OF SETTLEMENTS RECEIVED BY STATE

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House Bill 4799

Sponsor: Rep. Mark Meadows

Committee: Judiciary

Complete to 5-19-09

A SUMMARY OF HOUSE BILL 4799 AS INTRODUCED 4-2-09

The bill would clarify that disbursements of monies received by the state in settlements would be by appropriation; prohibit acceptance by the Attorney General of goods, services or other benefits in lieu of a debt owed to the state; require money paid to settle a debt to be immediately deposited in the state treasury and expended only upon appropriation; require the Attorney General to report certain information to the Legislature quarterly; and prohibit the use of settlement proceeds to finance advertisements or public service messages for state elected officials or persons running for state office.

Currently, Section 33 of Chapter 12 of the Revised Statutes of 1846 requires the Attorney General to pay all monies received "for debts due, or penalties forfeited to the people of this state" into the state treasury. Further, any cash settlements ("proceeds") entered into by the executive branch of state government as a result of a lawsuit on behalf of the state must be deposited into a restricted fund and expended only as authorized by law. This applies to cash settlements only, and not to real property or stocks, bonds, or other "evidence of indebtedness" unless they were to be converted into cash as part of the settlement.

Proceeds from settlements could be used only after appropriation. The bill would amend Section 33 (MCL 14.33) to clarify that the proceeds of a settlement deposited into a restricted fund would be used as provided by law after appropriation.

Any money that is (1) paid to settle a debt or obligation owed to the state or people of the state or (2) paid in lieu of a debt or obligation owed to the state or people of the state; as well as (3) any goods or services offered to settle claims on behalf of the state or the people of the state would have to be deposited in the state treasury immediately after receipt and would not be available for expenditure or disbursement until appropriated. This provision would not apply to settlement money or goods disbursed by a court-approved claims administrator directly to consumer members of a class action lawsuit brought by the Attorney General, as long as the disbursement is judicially authorized and made following a notice period and fairness hearing. It also would not apply to supplemental environmental projects secured on behalf of the Department of Environmental Quality.

Restrict benefits to a third party. The bill would also prohibit, except as otherwise provided by state or federal law, the Department of Attorney General from agreeing to accept the payment of money, goods, services, or other benefits to a third party or parties in lieu of a debt or obligation otherwise due to the state or the people of the state as part of the settlement of a lawsuit or administrative enforcement action on behalf of the state, the people of the

state, a state entity, or an individual or officer acting on behalf of the state against a private individual, business, or other entity.

Reports by the Attorney General. The Attorney General would be required to make reports on a quarterly basis to the State Budget Office and the Appropriations committees of the House and Senate with the case numbers and corresponding attorney general case file numbers, court docket numbers, and presiding courts for every matter that he or she had settled during the preceding quarter. In addition, the AG would have to report the total settlement value for each case reported. Further, each settlement would have to be itemized to reflect the aggregate Michigan consumer recovery; the value of restitution paid on behalf of the state or any state or federal department or agency whose interest was resolved in the case; amounts recovered for civil penalties; amounts recovered for attorney fees; and amounts recovered as reimbursement for the costs of investigation. Nonmonetary proceeds would have to be identified and the value of the proceeds indicated for each case as provided above.

Prohibition on Advertising. The proceeds of any settlement entered into on behalf of the state could not be used for advertising or a public service message that includes a reference to, or the image or voice of, an elected state official or a candidate for a state elective office.

FISCAL IMPACT:

House Bill 4799 would increase costs to the Department of Attorney General by an indeterminate amount due to additional administrative workload from the bill's reporting requirements. According to the department, the bill's provisions requiring that lawsuit settlement proceeds be appropriated would not affect the funding of the operations for the Department of Attorney General.

The bill requires quarterly reports from the Attorney General concerning every matter that the Attorney General settled during the preceding quarter. The reports must include the case names for each settlement, case file numbers, court docket numbers, and total settlement value. In addition, the bill requires that the funding amount of each settlement be itemized by the value of restitution paid on behalf of the government agency in the case, the amount recovered for civil penalties and attorney fees, and the amount recovered as reimbursement for the costs of investigation.

The Michigan Department of the Attorney General has recently developed a Settlement Center webpage on its website under the *Publications* heading which lists all individual settlements to the State of Michigan and Michigan consumers by case name since 2002-03. According to the website, there have been 895 settlements since 2002-03 that have recovered approximately \$1.8 billion for the State of Michigan and more than \$41.7 million for consumers.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.