

FISCAL BRIEF

LAWSUIT SETTLEMENT PROCEEDS FUND

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FAST FACTS

- The LSPF was created in 1996 to require legislative appropriation for expenditure of lawsuit proceeds.
- Unless appropriated, revenue in the fund lapses to the General Fund at the end of the fiscal year.
- Appropriations from the fund have become more common in recent years, including \$6.3 million for FY 2018-19.
- Revenue to the fund varies significantly from year to year depending on the number and size of settlements
- Appropriations made from the fund are contingent on revenues meeting the authorized spending amount.

INTRODUCTION

The Legislature created the Lawsuit Settlement Proceeds Fund (LSPF) in 1996 to hold proceeds from lawsuit settlements won by the Department of Attorney General. Proceeds have customarily remained in the fund until the end of the fiscal year, at which time they lapse to the General Fund. However, in recent years the legislature has appropriated money from the fund for various purposes. This brief summarizes the fund's revenue sources and authorized uses.

LAWSUIT SETTLEMENT PROCEEDS FUND

The LSPF is one of many funds within state government which receives proceeds revenue from court judgments and settlements. State departments and agencies assign certain restricted funds within their budgets to receive proceeds when they are a named party to a lawsuit or case and recipient of proceeds. When no department or agency is named as a party, and the case has no clear relation to specific matters supported by other restricted funds, the LSPF serves as the designated fund to receive the proceeds.

Under section 33, Chapter 12 of Michigan Compiled Laws (MCL 14.33), proceeds from a lawsuit settlement "shall be deposited into a restricted fund to be used as provided by law" and all money received by the Attorney General "for debts due, or penalties forfeited to the people of this state" shall be paid into the state treasury. Proceeds are defined as a cash settlement excluding real property, stocks, bonds, or other indebtedness. Proceeds with no designated restricted fund are therefore deposited into LSPF. All money left unappropriated in the fund at the end of the fiscal year (FY) lapses to the General Fund. Money in the fund can only be expended as authorized by legislative appropriation. When money is appropriated from LSPF, it is designated as state restricted funds.

HISTORY

The LSPF was created by PA 563 of 1996, as a fund to hold proceeds that were deemed general purpose revenues due to having no restricted fund designation. Prior to the act, proceeds revenue were expended without legislative appropriation.

The legislature had not appropriated any proceeds from the fund until FY 2012-13, when it appropriated a total of \$7.5 million for two projects: \$3.5 million was simultaneously appropriated to and from the Student Safety Fund to support the creation and operation of the Ok2Say student reporting hotline, and \$4.0 million was appropriated to and from the State Forensics Laboratory Fund to support the costs of testing the backlog of sexual assault kits found in Detroit. Funds from the LSPF were not appropriated again until FY 2015-16 when they were authorized to support the Attorney General’s investigation of events leading up to the Flint Declaration of Emergency due to drinking water contamination. Funds have been appropriated from the LSPF in every subsequent fiscal year for various purposes. [Table 1](#) presents a history of appropriations made from the LSPF.

| Table 1: Lawsuit Settlement Proceeds Fund Appropriation History and Summary | | | | |
|--|----------------------|---|-----------------------------|-------------------|
| Fiscal Year | Appropriation | Purpose | Department(s) | Public Act |
| 2012-13 | \$3,500,000 | Ok2Say student reporting hotline program | AG (\$2.4m) MSP (\$1.1m) | 2013 PA 102 |
| | <u>\$4,000,000</u> | Testing of the Detroit sexual assault kit backlog | MSP | 2013 PA 102 |
| FY Total | \$7,500,000 | | | |
| 2015-16 | \$1,300,000 | Flint water emergency investigation | AG | 2016 PA 268 |
| 2016-17 | \$2,600,000 | Flint water emergency investigation | AG | 2016 PA 268 |
| | <u>\$1,800,000</u> | Wrongful imprisonment claims review | AG | 2017 PA 107 |
| FY Total | \$4,400,000 | | | |
| 2017-18 | \$2,600,000 | Flint water emergency investigation | AG | 2017 PA 107 |
| | \$3,000,000 | Flint-related legal defense costs | DEQ | 2017 PA 107 |
| | \$180,000 | Bad-Faith Patent Infringement Enforcement | AG | 2017 PA 107 |
| | <u>\$600,000</u> | PACC case management IT system replacement | AG | 2017 PA 107 |
| FY Total | \$6,380,000 | | | |
| FY 2018-19 | \$2,600,000 | Flint water emergency investigation | AG | 2018 PA 207 |
| | \$700,000 | Juvenile life without parole resentencing | AG | 2018 PA 207 |
| | <u>\$3,000,000</u> | Flint-related legal defense costs | DEQ | 2018 PA 207 |
| FY Total | \$6,300,000 | | | |
| Grand Total | \$25,880,000 | | | |

REVENUE

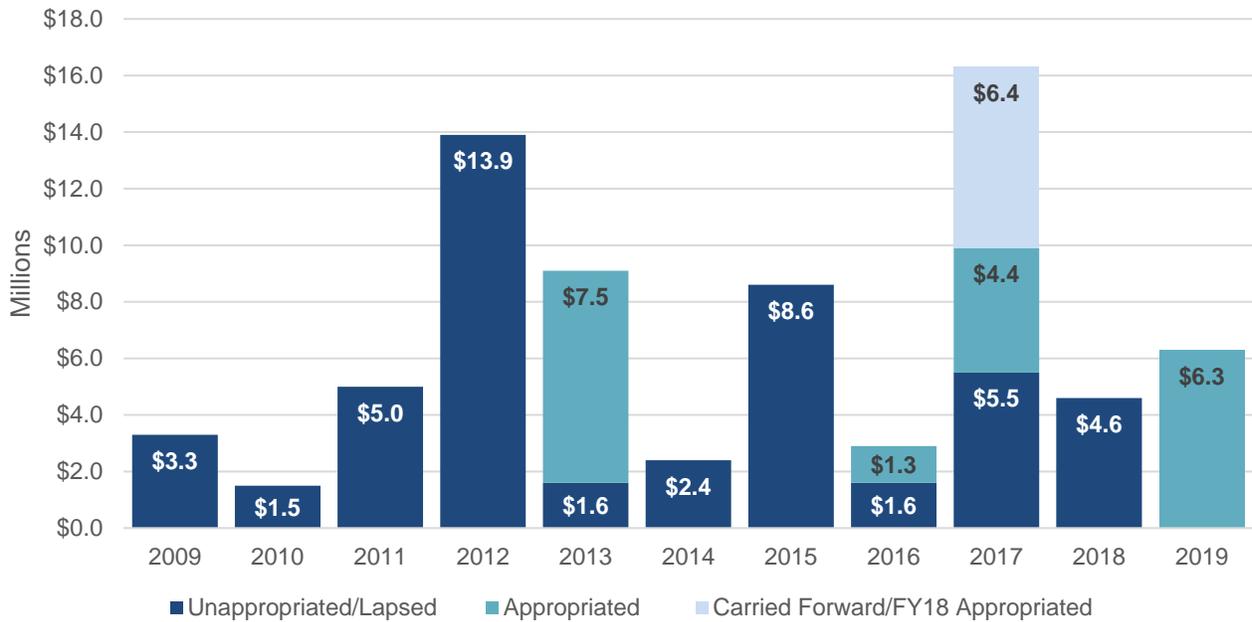
Revenue to the fund can vary significantly from one fiscal year to the next due to the unpredictable number and size of settlement deposits. Within the 10-year period from FY 2008-09 to FY 2017-18, the average annual revenue deposited into LSPF was \$6.1 million, and varied on average by \$4.0 million from year-to-year. During this time individual deposits to the fund ranged in size from around \$500 to \$11.7 million. The largest source of proceeds to the LSPF are multi-state lawsuit settlements entered into by the Attorney General and civil lawsuits initiated by the Attorney General. Proceeds accrue to the LSPF throughout the fiscal year as they are awarded in court and become available for deposit. Annual revenues and appropriations during this period are presented below in [Figure 1](#).

Not all proceeds collected from lawsuits initiated by the Attorney General accrue to the LSPF. Proceeds are also deposited into funds such as the Human Trafficking Commission Fund, Antitrust Enforcement Collections and State Medicaid Fraud Control Unit. Proceeds are directed to a specific state restricted fund according to whether the nature of a case has a “nexus”, or association, to the particular issue supported by a restricted fund.

The Legislature appropriated \$6.4 million from the LSPF for FY 2017-18 and \$6.3 million for FY 2018-19. Both years exceed the 10-year revenue average from FY 2007-08 to FY 2017-18. Funds are usually appropriated within annual omnibus budget acts which are enacted prior to the start of the fiscal year. Due to the unforeseeable nature of LSPF

revenue, spending authorizations made in advance of the collection of settlement proceeds are not guaranteed to be funded. Due to this concern, the legislature provided that \$6.4 million of LSPF revenue in FY 2016-17 would not lapse to the General Fund but instead would carry forward into FY 2017-18 to ensure all FY 2017-18 appropriations were funded. There was no authorization for any FY 2017-18 funds to carry forward to support FY 2018-19 appropriations. If FY 2018-19 revenue is insufficient to fully support each appropriation for that year, the State Budget Office will determine the distribution of the fund’s revenue among each appropriation.

**Figure 1: Total Lawsuit Settlement Proceeds Fund
Distribution of Appropriated and Unappropriated
FY 2008-09 to FY 2018-19**



Note: FY 2018-19 revenue is still being collected and the total amount is not yet known. The \$6.3 million for FY 2018-19 represents the total appropriated amount and not revenue.