



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

August 11, 2000

### **S. 353**

### **Class Action Fairness Act of 2000**

*As reported by the Senate Committee on the Judiciary on July 27, 2000*

CBO estimates that implementing S. 353 would cost the federal district courts about \$5 million a year. The bill would not affect direct spending or receipts, so pay-as-you-go procedures would not apply. S. 353 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. S. 353 would impose a new private-sector mandate, but CBO estimates that the direct cost of the mandate would fall below the annual threshold established in UMRA (\$109 million in 2000, adjusted annually for inflation).

S. 353 would expand the types of class-action lawsuits that would be heard initially in federal district courts. As a result, most class-action lawsuits would be heard in a federal district court rather than a state court. Therefore, CBO estimates that the bill would impose additional costs on the federal district court system. While the number of cases that would be filed in federal court under this bill is highly uncertain, CBO expects that at least a few hundred additional cases would be heard in federal court each year. According to the Administrative Office of the United States Courts, class-action lawsuits tried in federal court cost the government, on average, about \$17,000. This estimate includes discretionary costs for salaries and benefits for clerks, rent, utilities, and associated overhead expenses, but excludes the costs of the salaries and benefits of judges. Thus, CBO estimates that implementing S. 353 would affect the courts' workload at a cost of about \$5 million annually.

S. 353 also would require the Judicial Conference of the United States, the Federal Judicial Center, and the Administrative Office of the United States Courts to study the impact of the bill on the workload of the federal court system and to report to the Congress no later than one year after the bill's enactment. CBO estimates that this provision would cost less than \$500,000 over the 2001-2002 period, subject to the availability of appropriated funds.

CBO also estimates that enacting this bill could increase the need for judges. Because the salaries and benefits of district court judges are considered mandatory, adding more judges would increase direct spending. But S. 353 would not—by itself—affect direct spending

because separate legislation would be necessary to increase the number of judges. In any event, CBO expects that enacting the bill would not require any significant increase in the number of federal judges, so that any potential increase in direct spending from subsequent legislation would probably be less than \$500,000 a year.

S. 353 would impose a new private-sector mandate on attorneys for the members of the plaintiff class in many class-action suits filed in or "removed" to federal courts. The bill would require class counsels to make notifications and disclosures to the attorneys general of all states in which a class member resides (and, in certain circumstances, to the Attorney General of the United States) within 10 days after a proposed settlement is filed in court. The bill defines a proposed settlement as a settlement agreement regarding a class action that is subject to court approval and would be binding on the class. The required notices and disclosures would include a copy of the suit, a copy of the proposed settlement, a statement of class-members' rights, and certain other materials. In effect, class counsels would have to provide up to 51 copies of documents and materials related to information that they usually already possess about the case. Further, the provision may allow for the use of the Internet in making such disclosures. Thus, CBO estimates that the costs of complying with this mandate would fall well below the statutory threshold established in UMRA (\$109 million in 2000, adjusted annually for inflation).

On August 18, 1999, CBO transmitted a similar cost estimate for H.R. 1875, the Interstate Class Action Jurisdiction Act of 1999, as ordered reported by the House Committee on the Judiciary on August 3, 1999. The bills are similar and the cost estimates are nearly identical.

The CBO staff contacts for this estimate are Lanette J. Keith (for the federal costs), and Patrice Gordon (for the private-sector impact). This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.