

Fiscal Estimate - 2005 Session

Original
 Updated
 Corrected
 Supplemental

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| LRB Number 05-0409/1 | Introduction Number SB-72 |
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Subject
 Prohibitions on organizations or organization affiliates that engage in abortion-related activities

Fiscal Effect

State:

No State Fiscal Effect
 Indeterminate

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|---|---|--|
| <input type="checkbox"/> Increase Existing Appropriations | <input type="checkbox"/> Increase Existing Revenues | <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget |
| <input type="checkbox"/> Decrease Existing Appropriations | <input type="checkbox"/> Decrease Existing Revenues | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Create New Appropriations | | <input type="checkbox"/> Decrease Costs |

Local:

No Local Government Costs
 Indeterminate

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|--|--|---|
| 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
| 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | |

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|--|---------------------------------------|
| Fund Sources Affected | Affected Ch. 20 Appropriations |
| <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS | |

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| Agency/Prepared By DHFS/ Ellen Hadidian (608) 266-8155 | Authorized Signature Andy Forsaith (608) 266-7684 | Date 8/26/2005 |
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Fiscal Estimate Narratives
DHFS 8/26/2005

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|---|-----------|---------------------|-------|---------------|----------|
| LRB Number | 05-0409/1 | Introduction Number | SB-72 | Estimate Type | Original |
| Subject | | | | | |
| Prohibitions on organizations or organization affiliates that engage in abortion-related activities | | | | | |

Assumptions Used in Arriving at Fiscal Estimate

Under current law, public funds may not be used for support of abortions unless the pregnancy threatens the woman's health or was caused by rape or incest. In addition, current law imposes additional restrictions in regards to the use of public funds under certain programs, such as programs supported by the federal Maternal and Child Health block grant (MCH) and on non-profit organizations and public entities that provide all of the following services: (a) pregnancy prevention; (b) family planning; (c) pregnancy testing; (d) pregnancy counseling; (e) prenatal care; and (f) pregnancy services and reproductive health care services that are related to pregnancy. Current law prohibits the use of certain public funding for pregnancy programs, as defined, if those services do any of the following: (a) provide abortion services; b) promote, encourage or counsel in favor of abortion services; or c) make abortion referrals either directly or through an intermediary in any instance other than when an abortion is needed to save the life of the mother. Also, public funds may not be distributed to any program that receives funding from a source requiring performance of abortion related activities. Current law suspends these prohibitions if they would result in the loss of federal funds. Current law allows providing non-directive information explaining pregnancy termination.

SB 72 would modify current law to expand the restrictions on public funding of pregnancy programs by: (a) requiring that affiliates of the organization that provides the pregnancy program or services also not engage in any of the prohibited activities, (b) expanding prohibited activities to include non-medical activities such as lobbying in favor of abortion, and (c) applying the restrictions to an organization that provides any of the activities, rather than all. SB 72 also eliminates the explicit authorization to provide non-directive information regarding pregnancy termination. SB 72 requires the Legislature Audit Bureau to audit organizations to determine compliance.

SB 72 also eliminates the current provision that specifies that restrictions of funds passing through the state treasury apply only to the extent that the restriction does not result in the loss of federal funds. However, the bill provides that the specified restrictions on the payment of public funds apply only to the extent that the application of the restrictions does not result in the loss of accreditation to a medical school. The bill also exempts funding for abortions that are allowed under Medical Assistance and Badger Care from the provision that prohibits organizations engaging in prohibited activities from receiving public funds. (Abortion is allowed under Medicaid under certain circumstances; in Wisconsin, Medicaid currently pays for six or seven abortions a year.)

Family planning programs for which the Department is responsible are funded by state, federal (Medicaid and MCH), and local funds. Medicaid family planning services were approximately \$4.1 million GPR and \$5.7 million FED and MA family planning waiver services were approximately \$2.0 million GPR and \$9.5 million FED in FY 05. The Department also funds reproductive health and family planning programs with state funds (\$2.0 million GPR in FY 05) and federal MCH funds (\$1.2 million FED in FY 05). Total funding for all MCH programs was \$11.2 million FED, which was matched by \$9.3 million in state and local funding in FY 05.

There would be a fiscal effect if the Department lost access to current family planning providers. If SB 72 becomes law, some of the non-profit agencies that contract with the Department to provide reproductive health services and MCH services would be ineligible to receive funds from the state treasury. If this occurred, the state would have to find other providers to contract with unless current providers reorganize to meet the requirements of the bill. It is not known whether these agencies would be willing or able to reorganize to meet the criteria of "physical and financial independence" set forth in this bill. Reduced access to family planning services could lead to an increase in Medicaid-funded births.

In many areas of the state, if current providers ceased to operate, there would not be another cost-effective provider, and it would therefore be very costly for the state to maintain the current level of service. If current levels of service were not maintained, there would be a risk of violating the federal maintenance of effort provisions associated with MCH and family planning grants which could trigger the loss of all federal funds for these programs.

In addition to the loss of family planning services, restrictions in this bill could result in the loss of federal funds in other ways. The restrictions under current law apply only to organizations that provide all of the services listed above. However, SB 72 places these restrictions on organizations that provide any of the specified services. Thus, an MA provider that provides only some of the pregnancy services would be subject to the restrictions and possibly could no longer receive Medicaid funds for other services. SB 72 may affect the state's ability under the MA program to utilize certain health care organizations that offer a broad array of pregnancy services.

However, it is also possible, based on the experience in other states, that the state statute that conflicts with federal law would be challenged in court and would be preempted by the federal statutory requirement under the U.S. Constitution's supremacy clause. Under this scenario, the Department would not experience a loss of federal funding.

If this challenge did not occur and organizations that provide family planning services were no longer able to operate because they were denied state and federal funds, the state is likely to experience an increase in Medicaid-funded births. Women who previously received contraceptive services from family planning clinics affected by this legislation would no longer be able to do so. An estimated 12,537 women currently receiving contraceptive services from these sources would be affected. Of these, an estimated 83% (10,396) would be Medicaid-eligible. Of these, it is estimated that an additional 1,711 Medicaid-funded births could occur as a result of the provisions in this bill. MA-related birth costs, including obstetric services, hospital discharge costs, and child costs for the first year, average \$9,103 per recipient annually. In addition, the child's mother would be added to the Medicaid caseload at a cost of \$2,520 AF per person annually. The cost of the additional 1,711 Medicaid-funded births (including mothers) would be \$19.9 million AF (\$8.3 million GPR and \$11.5 million FED) annually.

Because of the factors discussed above, the fiscal impact of this bill on the Department is uncertain but could be very significant.

Long-Range Fiscal Implications