

### Fiscal Estimate - 2017 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> 17-5307/1	<b>Introduction Number</b> SB-745
<b>Description</b> deference by courts to agency interpretations of law, notice and comment requirements for guidance documents issued by agencies, and agency rule-making authority	
<b>Fiscal Effect</b>	
<b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <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	
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs      3. <input type="checkbox"/> Increase Revenue      5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs      4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input type="checkbox"/> Others      0 <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b> <b>Affected Ch. 20 Appropriations</b> <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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<b>Date</b> 3/7/2018	

## Fiscal Estimate Narratives

DOC 3/7/2018

LRB Number	17-5307/1	Introduction Number	SB-745	Estimate Type	Original
<b>Description</b> deference by courts to agency interpretations of law, notice and comment requirements for guidance documents issued by agencies, and agency rule-making authority					

### Assumptions Used in Arriving at Fiscal Estimate

This bill would prohibit a court performing judicial review from according deference to an agency's interpretation of law. The fiscal impact of this prohibition is indeterminate, as the Department of Corrections (DOC) is unable to predict how many court cases will arise in which this prohibition would have an impact, nor in what ways this prohibition would affect the outcome of such cases.

This bill would require that, before adopting a "guidance document" (as defined in the bill), an agency must post the proposed document on its Internet site and provide a period for persons to submit written comments to the agency on the proposed guidance document. The agency must retain all written comments submitted during the public comment period.

DOC is unable to estimate the fiscal effect of this part of the bill, as the volume of public comments that it would need to retain is indeterminate at this time. Were DOC to need to retain a sufficiently large volume of public comments, additional storage space and/or staff may be required.

This bill has various other provisions related to guidance documents, including that "A guidance document does not have the force of law and does not provide the authority for implementing or enforcing a standard, requirement, or threshold, including as a term or condition of any license." This bill also provides that settlement agreements, consent decrees, and court orders do not confer rule-making authority and cannot be used by an agency as authority to promulgate rules.

In both cases, the fiscal impact is indeterminate, as DOC is unable to predict how many situations will arise in which these requirements will have an impact, nor the nature of that impact. DOC does not estimate that these requirements would impact DOC's current guidance documents, as those documents represent DOC policies that are supported by rules, state law, federal law, and/or case law.

### Long-Range Fiscal Implications