

Fiscal Estimate Narratives

OSER 10/30/2007

LRB Number	07-2711/1	Introduction Number	AB-0533	Estimate Type	Original
Description Employer monitoring of employee electronic mail usage					

Assumptions Used in Arriving at Fiscal Estimate

This draft bill prohibits any employer from monitoring any e-mail sent or received by an employee unless the message is sent on employer-owned computer equipment and the employer: 1) provides written notice to the employee upon hire, and at least once per year after that of the employer's policy regarding monitoring of employee e-mail usage; and 2) provides employees written notice at least 30 days in advance of any changes in those policies. Notices must include statements as to the purposes and frequency of employer e-mail monitoring and a statement for the employees to sign acknowledging receipt and understanding of the notice.

This draft bill also prohibits an employer from monitoring any e-mail messages sent or received by employees because the employees have exercised or are exercising, or because the employer believes employees have exercised, are exercising, or may exercise their collective rights to form, join, or assist a labor organization, bargain collectively, and/or engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection.

The draft bill allows an employer to monitor its own e-mail system(s) for business and personal use by employees to ascertain the efficiency or productivity of the employees, or for system maintenance, security, or protection.

Finally, the draft bill allows for employees to file formal complaints regarding alleged violations of the bill's provisions with the Department of Workforce Development (DWD), and that DWD must process the complaints in the same manner as employment discrimination complaints.

As stated above, the draft bill provides employees protection for selected activities related to collective bargaining efforts. Such protections already exist in the State Employment Labor Relations Act (SELRA) under Chapter 111.80 et seq., Wis. Stats., which covers state employees. SELRA provides a formal complaint process before the Wisconsin Employment Relations Commission (WERC) by which employees can file unfair labor practice complaints about their union-related e-mail with the WERC alleging violations of their right to assist a labor organization. Similar protections also exist in other state statutes (see for example, sec. 111.70(2), Wis. Stats.), or the National Labor Relations Act. Governing statutes also provide for appeal paths and remedies, which might now be viewed as duplicative of the draft bill's provisions.

Specific costs associated with the draft bill cannot be determined because there is no reliable manner to estimate the formal complaint volume generated as a result of this bill. Employees may choose to file complaints with the WERC instead of DWD, therefore it would be difficult to estimate the volume generated as well as the fiscal impact. Additionally, compliance costs cannot be determined because many if not all state agencies routinely promulgate e-mail usage policies separately, or as part of their agencies' work rules, and are therefore at least in partial compliance with the draft bill's provisions. The bill would generate other indeterminate administrative and operating costs for each agency, though those costs would likely be absorbed within agencies' normal rule and policy promulgation efforts.

Long-Range Fiscal Implications

Indeterminate.