

Fiscal Estimate - 2007 Session

Original
 Updated
 Corrected
 Supplemental

| | |
|------------------------------------|--|
| LRB Number 07-1864/1 | Introduction Number SB-126 |
|------------------------------------|--|

Description
 Notification of the state regarding a medical malpractice claim

Fiscal Effect

State:

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

Local:

| | | |
|--|--|---|
| <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"/> 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 |
| <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | |
| 2. <input type="checkbox"/> Decrease Costs | 4. <input type="checkbox"/> Decrease Revenue | |
| <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | |

| | |
|--|---------------------------------------|
| 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 | |

| | | |
|--|---|-------------------------|
| Agency/Prepared By DOJ/ Mark Rinehart (608) 264-9463 | Authorized Signature Mark Rinehart (608) 264-9463 | Date 8/7/2007 |
|--|---|-------------------------|

Fiscal Estimate Narratives

DOJ 8/7/2007

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|---|------------------|---------------------|---------------|---------------|-----------------|
| LRB Number | 07-1864/1 | Introduction Number | SB-126 | Estimate Type | Original |
| Description Notification of the state regarding a medical malpractice claim | | | | | |

Assumptions Used in Arriving at Fiscal Estimate

Under current law, no person may bring a civil action or civil proceeding against a state officer, employee or agent for recovery of damages for medical malpractice resulting from the official duties of the officer, employee or agent unless the person serves a notice of claim with the attorney general within 180 days after the injury was discovered or should have been discovered. Senate Bill 126 removes the requirement that a person must serve a notice of claim for medical malpractice involving a state officer, employee or agent on the attorney general within 180 days after the injury was discovered or should have been discovered.

The Department of Justice's Civil Litigation Unit is responsible for state tort defense, both trial and appellate. This unit provides legal representation for the medical faculty of the University of Wisconsin and the Department of Corrections in medical negligence cases. Most of the litigation is handled in a similar procedural manner. DOJ's attorneys and paralegals ordinarily seek dismissal of the suit before trial, either by a motion for summary judgment, by a motion for failure to exhaust administrative remedies, or by a motion for failure to state a claim.

In 2006, six medical malpractice cases that were brought against the state were dismissed by the court due to the plaintiffs' failure to file a proper notice of claim. In addition, DOJ estimates that last year another ten medical malpractice suits were not even filed against the state because plaintiffs' attorneys realized the notice of claim requirement could not be met.

Under SB 126, DOJ would have litigated at least 16 more medical malpractice cases in 2006, provided those cases were commenced within the time limits that apply to claims against private health care providers, generally three years from the date of the injury or one year from the date the injury was discovered or should have been discovered.

The Department of Justice will need additional resources to handle the increased caseload that would result from the enactment of SB 126. The department will need 1 additional assistant attorney general, .5 additional paralegal, and .5 additional secretary to process an anticipated increase of at least 16 medical malpractice cases per year.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2007 Session

Detailed Estimate of Annual Fiscal Effect

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| | | | |
|---|------------------|--|-----------------|
| LRB Number 07-1864/1 | | Introduction Number SB-126 | |
| Description Notification of the state regarding a medical malpractice claim | | | |
| I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): One-time costs of \$8,300 for computers and furniture. | | | |
| II. Annualized Costs: | | Annualized Fiscal Impact on funds from: | |
| | | Increased Costs | Decreased Costs |
| A. State Costs by Category | | | |
| State Operations - Salaries and Fringes | \$195,664 | | \$ |
| (FTE Position Changes) | (2.0 FTE) | | |
| State Operations - Other Costs | 24,000 | | |
| Local Assistance | | | |
| Aids to Individuals or Organizations | | | |
| TOTAL State Costs by Category | \$219,664 | | \$ |
| B. State Costs by Source of Funds | | | |
| GPR | 219,664 | | |
| FED | | | |
| PRO/PRS | | | |
| SEG/SEG-S | | | |
| III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.) | | | |
| | Increased Rev | | Decreased Rev |
| GPR Taxes | \$ | | \$ |
| GPR Earned | | | |
| FED | | | |
| PRO/PRS | | | |
| SEG/SEG-S | | | |
| TOTAL State Revenues | \$ | | \$ |
| NET ANNUALIZED FISCAL IMPACT | | | |
| | State | | Local |
| NET CHANGE IN COSTS | \$219,664 | | \$ |
| NET CHANGE IN REVENUE | \$ | | \$ |
| Agency/Prepared By | | Authorized Signature | Date |
| DOJ/ Mark Rinehart (608) 264-9463 | | Mark Rinehart (608) 264-9463 | 8/7/2007 |