



**Fiscal Estimate Narratives**  
**OSER 2/26/2009**

LRB Number	<b>09-1938/1</b>	Introduction Number	<b>AB-0064</b>	Estimate Type	<b>Original</b>
<b>Description</b> Employer monitoring of employee electronic mail usage					

**Assumptions Used in Arriving at Fiscal Estimate**

This bill prohibits any employer, including the state, from monitoring any email message sent or received by an employee unless the employee sends or receives the message through a computer owned by the employer and the employer: 1) provides written notice to the employee of the employer's policy regarding the monitoring of employee email usage when the employee is hired and not less than once each year after that; and 2) provides written notice to the employee of any change in that policy not less than 30 days before the effective date of the change in policy. The notice must include a statement of the purposes for which employee email messages are monitored and the frequency with which that monitoring is conducted and a statement for the employee to sign acknowledging that the employee has received and understands the notice. The bill also prohibits an employer from monitoring any email message sent or received by an employee because the employee has exercised or is exercising, or because the employer believes that the employee has exercised, is exercising, or may exercise, his or her right to form, join, or assist a labor organization, to bargain collectively, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection.

To the extent there is fiscal impact directly to the Office of State Employment Relations it would occur if a represented employee or union were to file a complaint to enforce rights granted under the bill that relate to employer monitoring of employee emails that the employee has exercised or is exercising his or her right to form, join, or assist a labor organization, to bargain collectively, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection. The fiscal impact would be in the costs the employer may incur in defense of the employee's complaint. In this scenario, the agency could absorb the cost.

From a practical standpoint, the bill conflicts with language regarding email usage in existing state collective bargaining agreements (CBAs). Furthermore, under the bill, the employer cannot modify email policies without at least 30 days notice. This provision would conflict with state CBAs that allow the employer to modify work rules with only 7 days notice. While section 111.93(3) Wis. Stats. articulate that CBAs supersede state statutes, the bill could still raise potential conflict of laws issues.

To the extent there may be fiscal impact overall to state government operations would occur if a state employee files a complaint against the state employer in an effort to enforce any right granted under the bill. The employer may then incur some costs in defense of the employee's complaint. Additionally, the bill results in additional administrative actions by agency personnel offices to make sure employees receive sufficient notice of email monitoring policies. The additional paperwork and staff time would result in minimal cost that could be absorbed by the agency.

**Long-Range Fiscal Implications**

Indeterminate.