

Fiscal Estimate - 2009 Session

Original Updated Corrected Supplemental

LRB Number 09-1370/1		Introduction Number AB-0130		
Description Costs of administering tests for intoxication				
Fiscal Effect				
State:				
<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		
Local:				
<input type="checkbox"/> No Local Government Costs				
<input checked="" type="checkbox"/> Indeterminate				
1. <input type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue		
<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		
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		
Fund Sources Affected		Affected Ch. 20 Appropriations		
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS				
Agency/Prepared By		Authorized Signature		Date
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Fiscal Estimate Narratives

DOT 4/24/2009

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Description Costs of administering tests for intoxication					

Assumptions Used in Arriving at Fiscal Estimate

This bill contains no provision for transferring costs paid by an offender to the law enforcement agency that incurred the costs. As such, there is no mechanism for a law enforcement agency to receive any revenues under the bill.

This analysis assumes that court clerks will somehow forward revenues to the appropriate law enforcement agency.

Under current law a law enforcement officer may request a person to provide a sample of breath, blood, or urine for analysis if the person is arrested for operating while intoxicated a vehicle, an all-terrain vehicle, a boat, or a snowmobile or for injury or homicide by intoxicated use of a vehicle. 2009 AB-130 endeavors to assess against the offender any costs associated with acquiring a blood sample and administering a blood test or analysis that were charged to or paid by a law enforcement agency.

REVENUES. The Wisconsin Division of State Patrol (DSP) spent \$60,425 in FY 2008 on 909 blood draws, or approximately \$66.50 each. The charge for a blood draw varies widely depending on the facility that is drawing the blood and the circumstances around which the blood is drawn. The DSP has been billed in the range of \$15 to \$250 for blood draws.

The Wisconsin State Lab of Hygiene (WSLH) performs 60% of the total chemical tests – they do not charge law enforcement agencies for alcohol and drug testing services related to OWI arrests. Private labs and local health labs that perform OWI testing do charge, and the WSLH charges for testing if police agencies insist on drug testing even if the BAC is over 0.10 (except for homicide OWI, GBH cases and similar serious offenses). Outside of homicide OWI and GBH cases, the State Patrol does not have a practice of insisting on drug testing when the BAC is over 0.10.

Assuming that the DSP requests 909 blood draws and of those approximately 95% result in a BAC over 0.08 or with a detectable prohibited drug, 864 persons would be charged with having prohibited alcohol concentration (PAC). Assuming a 92% conviction rate, 795 persons would be required to pay the costs incurred by the arresting law enforcement agency (note: our read of the bill is that the offender will pay the court clerk, not the LE agency directly). Assuming only 67% of convicted offenders will actually pay their court ordered forfeitures, approximately 533 people would reimburse the arresting LE agency for the blood draws. Assuming an average cost of \$67.00 per blood draw, DSP might recover \$35,711.00 per year.

COSTS. The bill requires the offender to pay “for the withdrawal, testing, or analysis of the person's blood”, which requires an individualized billing for each offender. State Patrol currently has no method of assigning bills for individual blood draws to the responsible court, nor a method of matching any payment received from a court to that bill if that money was even actually paid by the convicted person. This individualized billing would probably prove to be very problematic for most LE agencies. As discussed above under revenues, it is anticipated that of 100% offenders billed, approximately 67% will pay or conversely 262 will not pay. Therefore, if total costs associated with billing exceed \$39.29 per offender, the billing costs will exceed revenues (note: estimated revenues of \$35,711.00, divided among billing costs for 909 tests). The Department could mitigate this by billing only those charges that exceed the expected average billing costs.

In addition, as discussed above, of the estimated 795 offenders ordered to pay the costs, the Department anticipates 262 will not pay. These 262 drivers will face contempt of court charges or driver license suspensions for failing to pay costs ordered by the court.

The net fiscal impact is indeterminate.

Long-Range Fiscal Implications

Indeterminate