Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2011 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number **11-2440/1**	Introduction Number **AB-0702**

Description
Second and subsequent charges of possession of marijuana under a local ordinance

Fiscal Effect

State:

☐ No State Fiscal Effect
☐ Indeterminate
- ☐ Increase Existing Appropriations
- ☐ Decrease Existing Appropriations
- ☐ Create New Appropriations
- ☐ Increase Existing Revenues
- ☐ Decrease Existing Revenues
- ☐ Increase Costs - May be possible to absorb within agency's budget ☐ Yes ☐ No
- ☐ Decrease Costs

Local:

☐ No Local Government Costs
☒ Indeterminate

1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
2. ☒ Decrease Costs ☐ Permissive ☒ Mandatory
3. ☒ Increase Revenue ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenue ☐ Permissive ☐ Mandatory

5. Types of Local Government Units Affected
☒ Towns ☒ Village ☒ Cities
☒ Counties ☐ Others
☐ School Districts ☐ WTCS Districts

Fund Sources Affected **Affected Ch. 20 Appropriations**
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS

Agency/Prepared By	Authorized Signature	Date
SPD/ Anna Oehler (608) 267-0311	Adam Plotkin (608) 264-8572	3/26/2012

Fiscal Estimate Narratives

SPD 3/26/2012

LRB Number **11-2440/1**	Introduction Number **AB-0702**	Estimate Type **Original**
Description Second and subsequent charges of possession of marijuana under a local ordinance		

Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal and certain commitment proceedings. The SPD plays a critical role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

This bill allows a municipal ordinance to be used to prosecute a person who has been previously convicted of possessing 25 grams or less of marijuana if the person is not prosecuted under the state prohibition against possession. A person who is in violation of this ordinance would be required to pay a civil forfeiture.

The SPD would likely realize a cost savings since representation is only provided in criminal cases which carry a penalty of incarceration. The SPD has no data to predict the possible decrease in the number of cases that could result from the provisions of AB 702. According to CCAP, the number of cases charged statewide under all subsections of 961.41(1)(h)and 961.41(1m)(h)was 2,748 in FY2011. While we are uncertain how many of those cases were represented by SPD, the SPD does represent clients regularly on possession of marijuana charges. The SPD's average cost to provide representation with a private bar attorney in a felony case is $613.83, calculated on the basis of the SPD's average costs per case type in fiscal year 2011. If the SPD represented 20% of the cases charged (2,748) under 961.41(1)(h) or 961.41 (1m)(h), then the estimated savings to the SPD could be $337,361 using the fiscal year 2011 average cost per felony case.

Counties would also experience decreased criminal justice costs attributable to the lower classification of criminal charges resulting from this bill. Municipalities, including counties, would also increase their revenue depending on the amount of the forfeiture.

Long-Range Fiscal Implications