

Fiscal Estimate Narratives

DPI 4/14/2011

LRB Number	11-1678/1	Introduction Number	SB-049	Estimate Type	Corrected
Description Revocation for immoral conduct of a license issued by the Department of Public Instruction					

Assumptions Used in Arriving at Fiscal Estimate

The bill directs DPI to initiate proceedings to revoke a license if the licensee is dismissed or his or her contract is not renewed based on whole or in part on evidence that the licensee intentionally used an educational agency's equipment to download, view, or distribute pornographic material in violation of the educational agency's policy.

Local costs:

A school district administrator is already required to report to the state superintendent any person who is dismissed, or whose contract is not renewed, by the employer based in whole or in part on evidence that the person engaged in immoral conduct. A school district administrator must also report any person that resigns if there is a reasonable suspicion that the resignation relates to the person having engaged in immoral conduct.

It is unclear whether the bill will result in more reporting by school district administrators. However, it is assumed that the intentional use of an educational agency's equipment to download, view or distribute pornographic material in violation of the educational agency's policy would have been reported as immoral conduct regardless of this bill.

State costs:

Currently under s. 115.31 (6) (b), Stats., upon receiving a report of immoral conduct relating to a person licensed by the state superintendent, the state superintendent shall investigate to determine whether to initiate revocation proceedings. The department will open an investigation and request additional information from the school district, if necessary. If the department determines the complaint warrants a possible license revocation, it will schedule a hearing regarding the complaint. If the licensee waives his or her right to a hearing, the department may automatically revoke the license. The department must pay approximately \$350 for docketing and \$135 per hour to a hearing officer to cover pre-hearing conferences, hearings, research, writing and travel costs. This is in addition to the department staff time already invested into the complaint investigation and hearing preparation. These costs are incurred regardless of whether the hearing ultimately takes place and if the hearing does occur, whether or not it results in the revocation of a license.

Because of inconsistencies in interpretation and legal challenges, the department would likely have to hire experts to determine what is considered pornographic and defend that position at a hearing. This would be a substantial, but indeterminate, cost to the department for an alleged offense that may not result in a license revocation because the material downloaded, viewed, or distributed is not considered pornographic by experts.

It is unclear how many referrals the department would receive and therefore how many investigations, hearings and experts would be required. However, it is clear that every referral the department receives will have to have hearings scheduled and experts called, regardless if the material downloaded, viewed, or distributed is truly "pornographic" and the conduct endangered the health, safety, welfare or education of any pupil as required under s. 115.31 (1) (c), Stats. Because of this uncertainty, the department cannot be certain it could absorb the related costs.

Long-Range Fiscal Implications