

Fiscal Estimate - 2021 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 21-5843/1	Introduction Number SB-957
------------------------------------	--

Description
 Consumer data protection and providing a penalty

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input checked="" type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<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	5. Types of Local Government Units Affected	
<input type="checkbox"/> Indeterminate	<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	
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	

Fund Sources Affected	Affected Ch. 20 Appropriations
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS	20.255 (2)(s), 20.455 (1)(a), 20.455 (1)(d)

Agency/Prepared By	Authorized Signature	Date
DOJ/ Michelle Gauger (608) 267-6714	Christopher J McKinny (608) 264-6367	2/14/2022

Fiscal Estimate Narratives

DOJ 2/14/2022

LRB Number	21-5843/1	Introduction Number	SB-957	Estimate Type	Original
Description Consumer data protection and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, the Department of Justice (DOJ) is responsible for enforcing laws that protect consumers and businesses, including laws that prohibit deception, fraud, misrepresentation, or concealment of facts in the sale or advertisement of goods and services. Consumer complaints are primarily handled by the Department of Agriculture, Trade and Consumer Protection which refers complaints to the DOJ for enforcement as appropriate. Complaints may also fall into the responsibility areas of other agencies depending on the nature of the involved businesses, including the Department of Financial Institutions, the Department of Transportation, the Office of the Commissioner of Insurance, and the Public Service Commission.

This bill provides that the Attorney General has the exclusive authority to enforce violations of the provisions of the bill, including ensuring controllers comply with rights provided to consumers related to personal data, provide required consumer notifications, conduct data protection assessments, and respond to consumer requests to invoke rights under the bill without undue delay, including appeals.

Before bringing an enforcement action, the DOJ must provide a controller written notice of the violation and 30 days to cure the violation and respond to the DOJ with a written statement that the violation has been cured and that the controller will remain in compliance. Uncured violations of the requirements of the bill by controllers are subject to forfeitures of \$7,500 per violation, which will be deposited into the state's Common School Fund. In addition, the DOJ may recover reasonable costs of investigation and litigation from successful enforcement actions brought by the DOJ.

The DOJ must establish a process to accept and review consumer complaints related to violations of the provisions of this bill, which is outside of the scope of the department's existing consumer protection responsibilities. The DOJ must conduct investigations of potential violations, provide written notices of violations to controllers, review controller responses for sufficiency, and file and prosecute enforcement actions for uncured violations. Forfeitures imposed on controllers related to successful enforcement actions will result in some amount of additional revenue to the Common School Fund but the amount and timing is difficult to project as it is not possible to accurately estimate the number of cases that will be filed and successfully prosecuted and how long it will take controllers to pay forfeitures imposed by the courts. The fiscal estimate assumes \$75,000 annually in revenue from collected forfeitures. Reimbursements of the costs of investigation and prosecution collected by the DOJ related to the successful prosecution of violations are expected to be nominal compared to the costs of administering the provisions of the bill as it is likely that the majority of complaint investigations and notifications will not result in an enforcement prosecution, and it may take several years to collect cost reimbursements from controllers found to have violated the provisions of the bill.

In order to administer the provisions of the bill, the DOJ will require 1.0 full-time equivalent (FTE) position to manage consumer complaint intake, 2.0 FTE investigators, 3.0 FTE assistant attorneys general, and 1.0 FTE assistant attorney general supervisor to manage the section. In addition, the DOJ will incur expert witness fees, filing and court fees, and other costs associated with enforcement actions estimated at \$100,000 annually.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2021 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 21-5843/1		Introduction Number SB-957	
Description Consumer data protection and providing a penalty			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$779,900	\$
(FTE Position Changes)		(7.0 FTE)	
State Operations - Other Costs		170,000	
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category		\$949,900	\$
B. State Costs by Source of Funds			
GPR		949,900	
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 (Common)		75,000	
TOTAL State Revenues		\$75,000	\$
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$949,900	\$
NET CHANGE IN REVENUE		\$75,000	\$
Agency/Prepared By		Authorized Signature	Date
DOJ/ Michelle Gauger (608) 267-6714		Christopher J McKinny (608) 264-6367	2/14/2022