

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 215** SLS 10RS 416
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: May 4, 2010	10:51 AM	Author: MOUNT
Dept./Agy.: Corrections		Analyst: Matthew LaBruyere
Subject: DWI		

DWI EG INCREASE GF EX See Note Page 1 of 2
 Amends the penalty provisions for a third and fourth offense DWI. (gov sig)

Proposed legislation maintains present law for third offense DWI and enhances imprisonment sentence from 45 days to 1 year without benefit of probation, parole, or suspension of sentence. Proposed legislation maintains present law for fourth or subsequent offense DWI and enhances imprisonment sentence from 75 days to 3 years without benefit of probation, parole, or suspended sentence. Proposed legislation provides for suspension of a third conviction of operating a vehicle while intoxicated for which a defendant could have his sentence suspended, when it appears that the best interest of the public and the defendant will be served, and with the consent of the district attorney, the court may suspend in whole or in part the imposition or execution of the sentence; and require that an offender to enter and complete an established DWI court program pursuant to the trial court and the district attorney.

EXPENDITURES	2010-11	2011-12	2012-13	2013-14	2014-15	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0
REVENUES	2010-11	2011-12	2012-13	2013-14	2014-15	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

The proposed legislation may result in an increase in state general fund expenditures. The exact fiscal impact of the passage of this legislation is indeterminable since it increases the penalty for 3rd and 4th DWI offenses and it is not known how many people will be convicted of this crime. However, any offender sentenced to the custody of the Department of Public Safety and Corrections increases expenditures by \$24.39 per day per offender in local facilities.

To the extent a person convicted of a 3rd DWI offense remains incarcerated for an additional 320 days (365 days in a year - 45 day minimum mandatory), state general fund expenditures increase \$6,986 (320 days x (\$24.39 per day in a state facility - \$2.56 per day parole/probation supervision)) per year. For a person convicted of a 4th or subsequent DWI offense, he would remain incarcerated an additional 1,020 days (1,095 days in 3 years - 75 day minimum mandatory) and increase state general fund expenditures by a total of \$22,267 (1,020 days x \$21.83 net per day in a local facility) over 3 years. For a 4th DWI offender the increased incarceration in year 1 of the sentence would be 290 days (365 days in a year - 75 day minimum mandatory).

According the Department of Corrections, in 2009 there were 292 3rd DWI offense offenders released who served less than 1 year and 130 offenders convicted for a 4th or subsequent DWI offense released who served less than 3 years. Of the 292 3rd DWI offense offenders, 121 served at least 37 days. To the extent the length of incarceration remains constant, the cost to incarcerate these offenders for an additional 328 days, which would increase the incarcerated time to 1 year, would be \$866,389 (121 offenders x \$21.83 per day x 328 days). Of the 130 4th or subsequent DWI offense offenders, 21 served at least 75 days. To the extent the length of incarceration remains constant, the cost to incarcerate offenders for an additional 290 days in year one and 730 days in years two and three would be \$132,945 (21 offenders x \$21.83 per day x 290 days) in year 1 and \$167,327 ((21 offenders x \$21.83 per day x 730 days)/2) for each of years 2 and 3 for a total of \$467,599.

(CONTINUED ON PAGE 2)

REVENUE EXPLANATION

There is no anticipated direct material effect on governmental revenues as a result of this measure.

Senate Dual Referral Rules

13.5.1 >= \$100,000 Annual Fiscal Cost

13.5.2 >= \$500,000 Annual Tax or Fee Change

House

6.8(F) >= \$100,000 Annual SGF Cost

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease

Robert E. Hosse
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LFO Staff Director

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CONTINUED EXPLANATION from page one:

There are currently 6 DWI courts operating in the state with 330 available slots for offenders. The DWI courts are currently funded by National Highway Traffic Safety Administration and local agency matching funds for a total of \$1,176,240 with \$814,480 in grant monies and \$361,760 in local agency match. The average cost per person per year is \$3,564 (\$1,176,240 / 330 available slots).

There are 49 Drug Courts operating in the state that 3rd DWI offense offenders are currently eligible to enter. The courts served approximately 3,300 participants per month in 2009. For FY 09, \$14,851,145 was allocated to fund drug courts around the state, with \$5 million in funding from the TANF program in an agreement from DSS and the remaining \$9.8 million from state general fund. The annual average cost for each adult participant is \$4,800.

The proposed legislation will increase state general fund expenditures if an offender is incarcerated or sent to drug court since both receive funding from the state general fund. To the extent an offender is sent to DWI court, federal and local funds will be expended. It should be noted that there is very limited availability in DWI courts since there are only 6 courts operating throughout the state. It is unknown if additional DWI courts would receive the same amount of federal funds as those currently operating and local funding would vary by jurisdiction.

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