

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 799** HLS 14RS 717
 Bill Text Version: **REENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: May 19, 2014 7:07 PM	Author: BISHOP, STUART
Dept./Agy.: Attorney General	Analyst: Matthew LaBruyere
Subject: Special Attorneys or Counsel	

ATTORNEYS RE INCREASE GF EX See Note Page 1 of 2
 Provides relative to the employment of special attorneys or counsel

Proposed law requires express statutory authority for compensation to a special attorney or counsel representing the attorney general, or any state agency, board or commission on a contingency fee or percentage basis. Present law prohibits the attorney general and governor from approving any action of a board in employing any special attorney or paying any compensation for special services rendered unless all of the board or commission has complied with all of the formalities regarding the resolution. Proposed law retains present law and provides for the following additional prohibitions: 1) The terms of the resolution do not match the required terms of the contract. 2) The need is not sufficiently shown in the resolution. 3) The fee is unreasonable. 4) The governor or attorney general determines there is a valid reason not to ratify or approve the action. Proposed law provides that a resolution requesting special counsel shall include the following: 1) Statement showing a real necessity exists. 2) Statement fully providing the reasons for the action. 3) The total compensation to be paid. 4) The statutory authority for the contingency fee if the contract contains a contingent fee.

EXPENDITURES	2014-15	2015-16	2016-17	2017-18	2018-19	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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						

REVENUES	2014-15	2015-16	2016-17	2017-18	2018-19	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>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

The proposed legislation is likely to result in a significant increase in state general fund expenditures as a result of no longer hiring private counsel that will be compensated by contingency fee or percentage basis. Currently, the Attorney General uses private legal counsel in situations such as seeking recovery for violations regarding the Medical Assistance Programs Integrity Law, legacy lawsuits, unfair trade practice, and others. Once a contract is initiated, the contracted firm assumes all costs related to the case. Compensation for private counsel is determined after the case is settled and in a separate hearing. The amount received by private counsel would be separate and not part of the settlement the state received.

For the purposes of this fiscal note, the majority of potential costs would apply to Medicaid Fraud cases. There are currently 6 pending Medicaid fraud cases being prosecuted in LA. The Attorney's General's (AG) Office indicates more fraud cases will likely be initiated in future fiscal years. To the extent the AG cannot employ private counsel that will be compensated upon the outcome of a civil action, the AG will need additional staff and resources to seek recovery.

The Attorney General's Office has estimated the following amounts based on continuing to prosecute the 6 pending cases. According to the department, a staff of 26 will be needed to seek recovery, which includes: 1 section chief (\$133,465 salary and benefits), 12 attorneys (\$1,351,650 salaries and benefits), 3 paralegals (\$233,775 salaries and benefits), 3 secretaries (\$167,127 salaries and benefits), 3 investigators (\$254,603 salaries and benefits), and 4 programmers (\$228,390 salaries and benefits). The department also estimates expenses associated with expert witnesses, court costs, and deposition costs would be approximately \$750,000. Potential costs are outlined below:

Personnel costs	- \$2,369,010
Travel expenses	- \$219,000
Operating services	- \$260,000
Supplies	- \$150,000
Other charges	- \$750,000
Office equipment	- \$309,100
Total	\$4,057,110

(CONTINUED ON PAGE 2)

REVENUE EXPLANATION

There is no anticipated direct material effect on governmental revenues as a result of this measure. Currently, any settlement dollars received are held by the Treasury until appropriated by the Legislature. This will remain the same under the proposed legislation. However, any appropriation of these dollars to the Attorney General will decrease reliance of SGF related to the increased expenditures by the department.

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|--|----------------------------|-------|--|
| Senate | <u>Dual Referral Rules</u> | House | <input checked="" type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} |
| <input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | | | <input type="checkbox"/> 6.8(F)(2) >= \$500,000 State Rev. Reduc. {H & S} |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | | | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

John D. Carpenter
Legislative Fiscal Officer

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CONTINUED EXPLANATION from page one:

EXPENDITURE EXPLANATION CONTINUED FROM PAGE ONE:

Travel expenses include instate and field travel, and out of state travel. Operating services include printing, mail, telephone, equipment. Supplies includes office supplies, computer supplies, and automotive (gas) supplies.

Acquisitions is made up of office equipment (computers, printers, office furniture, and server) and 2 automobiles (\$22,600 each). In the event the department has some surplus items, not all acquisitions will not be required.

The LFO cannot determine the exact number of positions and amount of resources that will be needed to seek recovery. However, any increase in cases by the AG's Office that is not currently handled by the department will require additional staff and resources.

Potentially, the department could enter into a contract with private counsel based on an hourly rate plus expenses related to the case. The maximum hourly rate the department may pay each attorney of private counsel working on the case is \$175 per hour. It is unknown what the potential impact to the department would be based on an hourly rate since it would vary from case to case. The department would also be responsible for travel, expert witness fees, and other litigation expenses associated with the case. It should be noted that at a rate of \$175 per hour, 644 hours of work would be the same amount (\$175/hour x 644 hours = \$112,700) as the salary and benefits (\$112,638) for 1 attorney working within the Attorney General's Office.

Senate Dual Referral Rules House 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} 6.8(F)(2) >= \$500,000 State Rev. Reduc. {H & S}

13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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