

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 286** SLS 18RS 702
 Bill Text Version: **REENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: April 25, 2018 8:05 AM	Author: MILKOVICH
Dept./Agy.: LA State Board of Medical Examiners	Analyst: Zachary Rau
Subject: Establishes the Physician's Bill of Rights	

PHYSICIANS RE INCREASE SG EX See Note Page 1 of 1
 Provides relative to the Physician's Bill of Rights. (8/1/18)

Proposed law enacts the Physician's Bill of Rights to provide for notices of complaints within 10 days of receipt by the LA State Board of Medical Examiners (LSBME), including the name of the person making the complaint and identification of the LSBME staff member making the complaint if originating from an LSBME staff member, as well as a detailed description of the complaint. Proposed law allows for the LSBME executive director to remove any investigator accused of bias or hostility to the physician upon request of the physician. Proposed law prohibits the LSBME investigator from communicating with the LSBME unless the physician subject to the complaint is present. Proposed law requires LSBME investigators to make written recommendation regarding an investigation's outcome and provides for presentation of the recommendation. Proposed law provides for dismissal of cases against physicians under certain circumstances. Proposed law provides for the LSBME to make files associated with the investigation to be subject to full discovery and available to the physician that is subject to the complaint. Proposed law prevents for the use of anonymous hearsay testimony. Proposed law requires the LSBME to notify physicians within 10 days of suspending or terminating their license. Proposed law allows for the LSBME to seek a temporary restraining order or terminate a physician's license sooner than the 10 days if it believes the public is threatened. Proposed law provides that all investigations conclude after 30 days or give notice to a physician that the investigation is ongoing. Proposed law grants a physician the right to an attorney, prompt hearing, and de novo review. Proposed law prohibits the LSBME and physicians entering into certain contracts. Proposed law allows for the transfer of cases to certain courts.

EXPENDITURES	2018-19	2019-20	2020-21	2021-22	2022-23	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
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	2018-19	2019-20	2020-21	2021-22	2022-23	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

Proposed law will increase SGR expenditures for the LA State Board of Medical Examiners (LSBME) by an indeterminable, but potentially significant amount. The LSBME's estimated costs are associated with an anticipated increase in investigation activity, as well as the resolution of complaints through additional administrative and/or judicial hearings. The LSBME reports the costs being associated with a preclusion on resolving physician complaints through consent orders included in the proposed legislation, which will result in additional investigation and legal activity. For reference, the LSBME states that it receives between 1,100 and 1,400 physician complaints annually, with 44 being resolved through consent order on average. The LSBME's reported costs total approximately \$1.06 M in FY 19 with a phase-up to approximately \$1.19 M by FY 23 due to an inflation factor of 3%.

The LSBME reports a need for 5 positions with total associated costs of \$680,188 associated with proposed law as follows - 1 Attorney (\$63,482 salary and related benefits); 2 Physicians (\$490,000 total salary and related benefits, \$245,000 per position); and 2 Compliance Investigators (\$126,706 total salary and related benefits, \$63,353 per position). The LSBME anticipates hiring 2 additional compliance investigators to supplement the 9 presently on staff at the board due to an anticipated increase in investigation activity. In addition, the LSBME anticipates requiring 2 additional physicians to oversee and review the work performed by the compliance investigators over the course of a given case. For reference, the LSBME has 1 physician overseeing investigations by compliance investigators. Lastly, the board reports requiring 1 Attorney to process and file legal paperwork associated with the anticipated increase in investigations, as well as for consulting with outside counsel (see following paragraph). Presently the LSBME has one part-time lawyer performing legal work.

The LSBME further anticipates utilizing outside counsel with estimated costs of \$375,000 to act on the board's behalf in the event proposed law results in increased adjudicatory hearings, including recusal hearings, de novo hearings, and hearings in appellate courts. Legal actions associated with hiring outside counsel include increased court filings, court arguments, and trials.

To the extent proposed law precludes the LSBME for resolving physician complaints through consent orders, the LSBME may realize additional costs associated with hiring additional personnel to conduct additional investigations and undertake any additional legal activity as a result of the proposed legislation. The amount of increased investigation and legal activity is ultimately indeterminable. However, while the scope of the potential financial impact is indeterminable, it is potentially significant due to the aforementioned factors.

REVENUE EXPLANATION

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

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>
<input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}		<input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {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}

Evan Brasseaux
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