



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **SB 459** SLS 14RS 29
Bill Text Version: **ORIGINAL**
Opp. Chamb. Action:

Proposed Amd.:
Sub. Bill For.:

Date: April 7, 2014	5:01 PM	Author: CLAITOR
Dept./Agy.: Attorney General		
Subject: Contract Attorneys		Analyst: Matthew LaBruyere

ATTORNEYS OR INCREASE GF EX See Note Page 1 of 2
Prohibits contingency fee contracts for private attorneys handling matters for the Department of Health and Hospitals.

Present law provides that the secretary of the Department of Health and Hospitals (DHH) or the attorney general may institute a civil action in the courts of this state to seek recovery from persons who violate the provisions of the Medical Assistance Programs Integrity Law.
Proposed law provides that no private counsel employed by the secretary of DHH or attorney general to institute such civil action shall be compensated on a contingency fee basis or any other basis solely dependent upon the outcome of the action.
Proposed law further provides that the contract of employment of such private counsel, including fee amounts, shall be a public record.

Effective August 1, 2014.

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	\$0	\$0	\$0	\$0	\$0	\$0
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	\$0	\$0	\$0	\$0	\$0	\$0
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 no longer hiring private counsel that will be compensated upon the outcome of a civil action. Currently, civil actions to seek recovery for violations regarding the Medical Assistance Programs Integrity Law are handled by the Attorney General using private legal counsel. 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.

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.

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}

John D. Carpenter
Legislative Fiscal Officer



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CONTINUED EXPLANATION from page one: Page 2 of 2

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.