

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0518-02  
Bill No.: HB 530  
Subject: Attorney General; Cities, Towns and Villages; Counties; Liability  
Type: Original  
Date: March 8, 2011

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Bill Summary: This proposal establishes the Public Fraud Prevention Act.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(\$187,257) to Unknown	(\$203,077) to Unknown	(\$205,558) to Unknown
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$187,257) to Unknown</b>	<b>(\$203,077) to Unknown</b>	<b>(\$205,558) to Unknown</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
General Revenue	2.5 FTE	2.5 FTE	2.5 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>2.5</b>	<b>2.5</b>	<b>2.5</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Administrative Hearing Commission, Office of the State Courts Administrator**, and the **Department of Conservation** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Transportation (MoDOT)** state the bill authorizes the Attorney General to file a lawsuit on behalf of the state when a false or fraudulent claim has been made. This bill does not specifically state that any penalties or damages recovered due to a false claim will be used to reimburse the damaged agency. MoDOT assumes an unknown fiscal impact to the Road Fund.

Officials from the **Office of the Attorney General (AGO)** assume this bill will create a fiscal impact. While the number of claims is unknown, AGO assumes that reviewing materials associated with potential claims of fraud, filing pleadings as intervenors, bringing causes of action alleging Medicaid fraud and providing mandated reports to the general assembly and governor will require additional staff. AGO assumes it would require 2 Assistant Attorneys General II (each at \$47,500 annually) and ½ Investigator (at \$35,000 annually) to meet the requirements of the bill. The AGO assumes a total cost for the new FTE of \$187,257 in FY 2012, and roughly \$205,000 annually thereafter.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>GENERAL REVENUE</b>			
Revenue - Attorney General's Office			
Potential civil penalties, damages, and/or costs of civil action awarded from the Public Fraud Prevention Act	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Costs - Attorney General's Office</u>			
Personal Service (2.5 FTE)	(\$93,750)	(\$113,625)	(\$114,761)
Fringe Benefits	(\$49,069)	(\$59,471)	(\$60,066)
Expense and Equipment	<u>(\$44,438)</u>	<u>(\$29,981)</u>	<u>(\$30,731)</u>
<u>Total Costs - AGO</u>	<u>(\$187,257)</u>	<u>(\$203,077)</u>	<u>(\$205,558)</u>
<b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b>	<b>(\$187,257) to <u>Unknown</u></b>	<b>(\$203,077) to <u>Unknown</u></b>	<b>(\$205,558) to <u>Unknown</u></b>
Estimated Net FTE Change for General Revenue Fund	2.5 FTE	2.5 FTE	2.5 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

## FISCAL DESCRIPTION

This bill establishes the Public Fraud Prevention Act. In its main provisions, the act:

- (1) Specifies that any individual who makes certain specified false claims to the state will be liable to the state for a civil penalty of at least \$5,000 but not more than \$10,000 plus three times the amount of damages the state sustains due to the individual's action;
- (2) Allows the court to assess a penalty for the person's actions of at least two times the amount of damages the state sustains and specifies that the person will also be liable to the state for the costs of a civil action brought to recover any penalty or damages;
- (3) Requires the Attorney General to diligently investigate a false claim violation and allows him or her to bring a civil action against any person if a violation is found;
- (4) Allows an individual to bring a civil action on behalf of himself or herself and the state for a false claim violation;
- (5) Requires the complaint in any civil action to be filed in camera, remain under seal for at least 60 days, and not be served on the defendant until the court orders the action to be served;
- (6) Specifies that if the Attorney General chooses not to proceed with the civil action, the individual who initiated the action has the right to conduct the action;
- (7) Requires a civil action for a false claim violation to be brought within six years after the date on which the violation was committed or within three years after the date when facts material to the right of action are known or reasonably should have been known by the state official charged with the responsibility to act in the circumstances, but no later than 10 years after the date on which the violation is committed, whichever occurs last;
- (8) Allows the Attorney General or a designee, whenever there is reason to believe a person may be in possession, custody, or control of any documentary material or information relevant to a Public Fraud Prevention Act investigation, to issue in writing and cause to be served on a person a civil investigation demand prior to commencing a civil proceeding; and
- (9) Entitles any employee, contractor, or agent to all relief necessary to make that person whole if the person is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done to stop a violation of the act.

FISCAL DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General  
Office of the State Courts Administrator  
Administrative Hearing Commission  
Department of Transportation  
Department of Conservation



Mickey Wilson, CPA  
Director  
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