

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: SB 2388 Amendment to: _____

Requested by Legislative Council Date of Request: 1-18-95

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, and cities.

Narrative: See attached

- 2. State fiscal effect in dollar amounts:

Table with 7 columns: Biennium (1993-95, 1995-97, 1997-99) and Fund types (General Fund, Special Funds). Rows for Revenues and Expenditures.

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1993-95 biennium: None
b. For the 1995-97 biennium: \$87,364
c. For the 1997-99 biennium: \$87,364

- 4. County and City fiscal effect in dollar amounts:

Table with 6 columns: Biennium (1993-95, 1995-97, 1997-99) and Location (Counties, Cities). Rows for Counties and Cities.

If additional space is needed, attach a supplemental sheet.

Signed Charles Carvell

Typed Name Charles Carvell

Date Prepared: Feb. 6, 1995

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NARRATIVE ON FISCAL NOTE RE SEN. BILL NO. 2388
COST TO OFFICE OF ATTORNEY GENERAL

Senate Bill No. 2388 imposes three responsibilities on government, each of which will have a fiscal impact. Preparing the fiscal note on one of these responsibilities was not difficult. It was, however, extraordinary difficult to do so on the other two responsibilities. This is because of the breadth of the bill, which is more fully reviewed below in the discussion of the fiscal impact of the three duties required by the bill.

Duty No. 1 (Section 2(1)). Attorney General's annual preparation and distribution to "every governmental agency" of taking guidelines.

To train a lawyer in the law of takings and keep the lawyer current, and to prepare the takings guidelines and their annual revision, will require about 60 hours a year, or a cost of about \$4,000 a biennium. The expenses in copying and mailing the guidelines to "every governmental agency," state and local, would be about \$2,000 a biennium.

Duty No. 2 (Section 4). Preparation of a takings assessment by state agencies and local governing bodies when they take a "government action."

Because a "government action," as defined by § 1 of the bill, is often taken by governing authorities, sometimes a number of times each day, thousands of takings assessment will have to be performed each year.

For example, the industrial commission's oil and gas division issues about 450 orders and permits each year, and its field inspectors make about 250 requests a year that operators do something to ensure compliance with the law. Most, if not all of these 700 actions would constitute a "government action" under the bill and trigger the duty to prepare a takings assessment. The agriculture department issues hundreds of permits a year to livestock dealers, auction markets, nurseries and greenhouses, dairy processors, etc. The department has six dairy inspectors that make 2,500 inspections a year. In 95% of the inspections the producer is asked to do something to ensure compliance with the law. It is likely that all of such actions will require a takings assessment. The State Engineer issues about 250 permits a year and each may require a takings assessment.

And not only are state agencies included in the bill. It includes "any political subdivision of the state." Political subdivisions include not only cities and counties but also a number of other bodies such as zoning boards, irrigation districts, and township boards.

Clearly, some actions taken by local governments will implicate the bill and trigger a takings assessment. But we have no idea what number of these actions might be taken in a year. It appears, however, that thousands of takings assessments will have to be performed each year. Assuming an assessment requires ten minutes to complete, hundreds of hours will be spent each year. The cost in time to state agencies and local government will probably exceed \$50,000 a biennium. There will also be out-of-pocket expenses in performing the assessments since a copy of each assessment must be sent "to the governor, the appropriate financial management authority, and the attorney general."

Duty No. 3 (Section 3). Attorney General's regulatory oversight of the duty upon state agencies and local governing bodies to perform takings assessments.

Adequate oversight will require review of takings assessments received from state agencies and local governments and any necessary follow-up work. Periodic compliance investigations will also be required. Because all government is covered -- state and local -- and because thousands of instances will occur requiring an assessment, regulatory oversight will require about 10% of the time of a lawyer and at least one FTE to handle the paperwork, evaluate the takings assessments filed, and conduct investigations. The FTE and attorney would cost about \$81,364 a biennium.

Possible Additional Costs to State Agencies and Local Governing Bodies.

If the intent of the bill is to expand the law of takings, government actions that today are not a taking may be one tomorrow. The result, at least until the revised law of takings is fully understood, will be a rise in the number of takings claims and a rise in the number of civil judgments against the state and political subdivisions. The amount government will spend to defend the suits and to pay judgments will likely be substantial. We have, however, no way to estimate these costs.