

FISCAL NOTE

JAN 6 1997

(Return original and 10 copies)

Bill/Resolution No.: HB 1158 Amendment to: _____

Requested by Legislative Council Date of Request: 1-2-97

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

Narrative:

(See attached narrative.)

2. State fiscal effect in dollar amounts:

	<u>1995-97</u>		<u>1997-99</u>		<u>1999-2001</u>	
	<u>General</u>	<u>Special</u>	<u>General</u>	<u>Special</u>	<u>General</u>	<u>Special</u>
	<u>Fund</u>	<u>Funds</u>	<u>Fund</u>	<u>Funds</u>	<u>Fund</u>	<u>Funds</u>
Revenues:	0	0	0	0	0	0
Expenditures:	0	0	0	0	0	0

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

- a. For rest of 1995-97 biennium: not applicable
- b. For the 1997-99 biennium: not applicable
- c. For the 1999-2001 biennium: not applicable

4. County, City, and School District fiscal effect in dollar amounts:

<u>1995-97</u>			<u>1997-99</u>			<u>1999-2001</u>		
<u>Biennium</u>			<u>Biennium</u>			<u>Biennium</u>		
<u>Counties</u>	<u>Cities</u>	<u>School Districts</u>	<u>Counties</u>	<u>Cities</u>	<u>School Districts</u>	<u>Counties</u>	<u>Cities</u>	<u>School Districts</u>
not applicable								

If additional space is needed, attach a supplemental sheet.

Date Prepared: January 6, 1997

Signed Allen C. Hoberg

Typed Name Allen C. Hoberg, Director

Department Office of Administrative Hearings

Phone Number 328-3260

NARRATIVE TO FISCAL NOTE FOR HOUSE BILL 1158

Although the fiscal impact of House Bill No, 1158 is not known for certain, it is not anticipated that House Bill No. 1158 will not have any or, at most, little fiscal impact on state administrative agencies. A large part of the bill is merely a change in terminology. Under the bill the new term, "adjudicative proceeding," is not a term that is substantially broader than the old term "contested case." In fact, with its more specific definition, the new term may be somewhat more limited than the old term. Estimating the fiscal impact of this change would be speculative. Roughly, those matters that were "contested cases" under the old terminology will be "adjudicative proceedings" under the new terminology, thus requiring roughly the same administrative attention and roughly the same expenditures for the conduct of proceedings.

It is anticipated that the changes to Section 3 (28-32-05) will not result in any substantial fiscal impact on agencies or the public. Although some procedures are more clearly defined and the use of the rules of civil procedure for service of complaints and notices, and for filing amended pleadings is invoked, the costs associated with these changes should be roughly the same as current costs for service and for the procedures. Many agencies and parties already follow the rules of civil procedure for service or use similar methods for service. It would be very difficult to say that the changes made in Section 3 would be any more or less costly for agencies or the public, overall, without knowing exactly all the methods and procedures currently in use by all agencies and by the public, as well as how frequently they are used. Such information is not available.

Using the provisions of Section 6 may result in some agencies experiencing fiscal impact to comply with its provisions. But, in contested cases, most agencies are already required to follow certain procedures for emergency hearings. It is not anticipated that the costs of complying with the procedures in Section 6 would be any more or less than the cost of complying with current emergency procedures. In any event, it is not known how many current agency administrative contested cases are handled by emergency proceedings, probably very few. Thus the impact is likely to be minimal, even if the costs of the new procedures would be somewhat greater. It is not anticipated to have substantial impact on the public either.

It is not anticipated that the changes made in Section 12 (subpoenas -discovery- protective orders) will result in substantial fiscal impact, either in substantial increased or decreased agency or public costs. One item that will likely decrease costs is the removal of the requirement that a party seeking discovery from a nonagency party get prior written agency approval to undertake discovery. This will cut out considerable paperwork costs (and hence attorneys fees in some cases) for discovery in those types of hearings. It is not known, however, how many such discovery requests are made each year with all the different agencies which have such hearings. As to the remainder of the discovery changes, they do not appear to be so significant as to likely result in substantial fiscal impact.

It is not anticipated that the changes in deadlines for issuing decisions under Section 16 will have any substantial fiscal impact on any agency or on the public.

In summary, although there will undoubtedly be several instances of fiscal impact resulting from the changes made in this bill, it does not appear that any are likely to be significant for agencies or the public. The exact fiscal effect is very difficult to contemplate and even more difficult to determine because of the various different ways in which these changes affect the various different agencies and the public that use the procedures and requirements. Also, the numbers of administrative matters in which these different procedures may be used or requirements invoked is almost impossible to determine without taking a survey of every agency involved. Such a survey has never been attempted. Also, it is almost impossible to determine or even to estimate the effect these changes may have on the public as it interfaces with various administrative matters before administrative agencies. There are so many variables, *e.g.*, whether a party is represented by an attorney or not.

However, the bill is likely to have very little fiscal impact because there will not be very much in the way of actual change from the way things are currently done. Little overall fiscal impact is anticipated.

fz

o:\legis\fn1158.doc