FISCAL NOTE
SENATE BILL NO. 2296
LC# 23.1009.01000
02/01/2023

1 - State Fiscal Effect

Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2021-2023 Biennium		2023-2025 Biennium		2025-2027 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			$941,768	$549,428	$383,753	$549,428
Appropriations			$941,768	$549,428	$383,753	$549,428

2 - County, City, School District, and Township Fiscal Effect

Identify the fiscal effect on the appropriate political subdivision.

	2021-2023 Biennium	2023-2025 Biennium	2025-2027 Biennium
Counties			
Cities			
School Districts			
Townships			

3 - Bill and Fiscal Impact Summary

Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).

SB 2296 relates to agency adjudications and judicial deference in administrative hearings.

4 - Fiscal Impact Sections Detail

Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.

DHHS COMMENTARY - Section 1 eliminates an agency's ability to rewrite the findings of fact, conclusions of law, and order (decision) and the agency would instead need to appeal the decision to the district court. The Department of Health and Human Services (DHHS) would need an increase in appropriation to cover the costs and expenses to appeal decisions to the district court. Section 2 removes the agency's deference in interpreting regulation and statute. DHHS would need an increase in appropriation to pay the Office of Attorney General to represent DHHS on all cases before the Office of Administrative Hearings (OAH) and to pay OAH due to an increase in time spent on

cases. DHHS will also need an additional FTE to write more detail into administrative rules and proposed statutory language to assure the agency's intent is clear and known. DHHS also anticipates section 2 to increase the need for additional appropriation as more individuals will be eligible for services and assistance if the "administrative law judge shall exercise doubt in favor of a reasonable interpretation that limits agency power and maximizes individual liberty."

ATTORNEY GENERAL COMMENTARY - The Attorney General's office (AG) would require two FTE attorney positions to handle the increased legal representation as a result of this bill.

WORKFORCE SAFETY AND INSURANCE COMMENTARY - Workforce Safety and Insurance (WSI) has reviewed this bill internally and discussed with its consulting actuary and determined it does not have sufficient data to permit a comprehensive evaluation of the potential fiscal impact of this proposed legislation. However, WSI anticipates the proposed legislation will serve to increase the uncertainty of outcomes for matters subject to the administrative appeal process.

5 - Revenues Detail

For information shown under state fiscal effect in 1 or 2, please explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

6 - Expenditures Detail

For information shown under state fiscal effect in 1 or 2, please explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

DHHS COMMENTARY - SB 2296 will require DHHS to appeal OAH decisions to the district court instead of considering rewriting the decision, will push DHHS to use the Office of Attorney General to represent it on all cases before OAH, will increase the cost DHHS pays to OAH, and will require DHHS to hire an attorney to expand DHHS rules and proposed legislation to assure DHHS intent is clear and known. DHHS will need $65,700 for district court appeals, $20,000 for public notices, $458,252 to pay the Office of Attorney General, $120,938 to pay OAH, and $268,291 for an additional FTE, with a total cost of $933,181, of which $383,753 is general fund.

ATTORNEY GENERAL COMMENTARY - The cost of two FTE positions for the Attorney General's office would be $558,015.

7 - Appropriations Detail

For information shown under state fiscal effect in 1 or 2, please explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.

DHHS COMMENTARY - For the 2023-2025 biennium, the DHHS anticipates the need for an additional $268,291 in SB 2012, section 1, subdivision one, in the salaries and wages line, of which $169,998 is general fund, and $664,890 in the operating line, of which $213,755 is general fund. For the 2025-2027 biennium, the DHHS would need an appropriation increase in salaries of $268,291, of which $169,998 is general fund, and an increase in operating expenses of $664,890, of which $213,755 is general fund.

ATTORNEY GENERAL COMMENTARY - The costs associated with this bill for the Attorney General's office are not included in the AG's budget request. The AG's office would need additional general fund appropriation authority in the amount of $558,015.

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